LEGISLATION.

THE TRAVANCOEE NAMPUTIRI BILL.

PRESIDENT: Mr. Tappan Namputiri, you have to move that the Travancore Namputiri Bill be read in Council.

MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*): സർ, തിരുവിതാംകൂർ നമ്പൂതിരി ബിൽ ഈ സഭയുടെ മുമ്പാകെ അവതരിപ്പിക്കയും ഈ ബില്ലിനെപ്പററി സഭ ആലോചിക്കണമെന്ന് അഭിപ്രായപ്പെടുകയും ചെയ്യുന്നു.

MR. K. K. THOMAS (*Kottayam*): I second it.

MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*): സർ, നമ്പൂതിരി കുടുംബങ്ങളുടെ ഭരണം നിയന്ത്രിതമാക്കി നന്നാക്കുവാനും നമ്പൂതിരികനിഷ്ഠന്മാക്കു സജാതീയവിവാഹത്തിനു സൌകര്യവും പ്രോത്സാഹനവും നൽകുവാനും, നമ്പൂതിരി കന്യകമാരെ യഥാകാലം വിവാഹം കഴിപ്പിച്ചുകൊടുക്കുവാനും, വാദവിഷയമായ പിൻതുടർച്ചാവകാശത്തെ ക്രമപ്പെടുത്തുവാനും ഉദ്ദേശിച്ചുകൊണ്ടാണ് ഇങ്ങിനെ ഒരു ബിൽ രൂപീകരിച്ചിട്ടുള്ളതു്. ഈ ബില്ലിൽ ആറു് അദ്ധ്യായങ്ങളം അടങ്ങീട്ടുണ്ടു്. അവയിൽ ഒന്നാം അദ്ധ്യായംകൊണ്ടു്, ബില്ലിൽ ഉപയോഗിച്ചിട്ടുള്ള പദങ്ങളുടെ അർത്ഥവിവരണവും, രണ്ടാമദ്ധ്യായത്തിൽ, കുടുംബഭരണത്തിൽ കാരണവന്മാക്കുള്ള അധികാരത്തെ നിയന്ത്രിക്കുകയും, ഇളമുറക്കാക്കു ചിലവിനു കൊടുക്കാനുള്ള അവകാശത്തെ ഉറപ്പിക്കയുമാണു ചെയ്തിട്ടുള്ളതു്. മൂന്നാം അദ്ധ്യായത്തിൽ മൈനർമാരുടെ രക്ഷാധികാരത്തെ വ്യവസ്ഥപ്പെടുത്തീട്ടുണ്ടു്.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): നമ്പൂതിരിമാരുടെ വിവാഹത്തെപ്പററി പറഞ്ഞതുഭാഗം ഇതിൽ കാണുന്നില്ല.

MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*): വിവാഹത്തിനു പ്രോത്സാഹനം കൊടുക്കത്തക്ക നിലയിലുള്ളതെല്ലാം പറഞ്ഞിട്ടുണ്ടു്.

നാലാം അദ്ധ്യായത്തിൽ ദായക്രമത്തേയും മരണശാസനമില്ലാത്തപ്പോളുള്ള പിൻതുടർച്ചയേയും വിവരിച്ചിട്ടുണ്ടു്. അഞ്ചാം അദ്ധ്യായത്തിൽ മരണശാസനമെഴുതാനുള്ള അവകാശം ഉറപ്പിച്ചിട്ടുണ്ടു്. ആറാം അദ്ധ്യായത്തിൽ ചിലകൂട്ടതൽ വ്യവസ്ഥകളെ വിവരിക്കുകയാകുന്നു. എന്നാൽ നമ്പൂതിരിസമുദായത്തിനു് ഈവിധമൊരു നിയമനിർമ്മാണം ആവശ്യമുണ്ടോ എന്നു സമുദായത്തിന്റെ പൊതുആവശ്യങ്ങളെ അറിഞ്ഞു സാധിക്കുവാനായി സ്ഥാപിച്ചു് ഇരുപതുകൊല്ലകാലമായി ശരിയായി നടന്നുവരുന്ന നമ്പൂതിരിയോഗക്ഷേമമഹാസഭയിൽ അനേകപ്രാവശ്യം വാദപ്രതിവാദങ്ങൾ ചെയ്തു ബില്ലിന്റെ ആവശ്യകതയെ രേഖപ്പെടുത്തുകയും ചെയ്തിട്ടുണ്ടു്.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. C. N. Tuppan Namputiri.]

രണ്ടുപ്രാവശ്യം പ്രത്യേകകമ്മറിക്കളെ വച്ചു സമുദായാംഗങ്ങളുടെ അഭിപ്രായം ചോദ്യങ്ങളയച്ചും വിസ്തരിച്ചും ശേഖരിച്ചു് റിക്കാർഡാക്കുകയും അവയെപ്പററി വാദപ്രതിവാദങ്ങളും നടത്തുകയും തീർപ്പുകളും ചെയ്തുകയും ചെയ്തിട്ടുണ്ടു്. രണ്ടു കമ്മറിക്കളുടേയും വിചാരണഫലം ഒരു രാജകീയനിയമനിർമ്മതിക്കു് അനുകൂലമായിത്തന്നെയാണു കാണപ്പെട്ടതു്. അതിന്റെ ശേഷം മഹാസഭ ചില മൂലതത്വങ്ങളും ഉറപ്പിക്കുകയും അവയെ അടിസ്ഥാനപ്പെടുത്തി ഒരു ബിൽ ഈ സഭയിൽ ഹാജരാക്കുവാൻ എന്നെ ചുമതലപ്പെടുത്തുകയും ചെയ്തിട്ടുണ്ടു്. കൊച്ചി നിയമസഭയിൽ ഏകദേശം ഇതുപോലുള്ള ഒരു ബിൽ മിസ്റ്റർ ശങ്കരൻനമ്പൂരി ഹാജരാക്കുകയും നിയമസഭ ആ ബിൽ ആലോചനക്കെടുത്തു മുന്നാം വായനവരെയുള്ള പ്രവൃത്തികളും ചെയ്യുകയും ചെട്ടുയ്തിണ്ടു്. നമ്പൂതിരി കുടുംബങ്ങളുടെ ഭരണവും, കാരണവന്റേയും ഇളമുറക്കാരുടേയും നിലയും, ഇന്നു നായർ റഗുലേഷൻ ഫാ ഠ വ്യവ്–ൽ പാസാവുന്നതിനു മുമ്പുള്ള മരുമക്കത്തായകുടുംബങ്ങളിലെ കാരണവന്റേയും അനന്തരവന്റേയും നിലയുടെ തുല്യമായിട്ടാണു് ഇരിക്കുന്നതു്. നായർ റഗുലേഷൻ വെള്ളാള റഗുലേഷൻ ഈഴവ റഗുലേഷൻ എന്നിവകളും പാസാക്കുവാൻ പ്രേരിപ്പിച്ച കാരണങ്ങളും പരിപൂർണ്ണമായി നമ്പൂതിരി കുടുംബങ്ങളുടെ ഭരണക്രമത്തെ വ്യവസ്ഥപ്പെടുത്തുന്നതിലും ബാധകമായിത്തീരുന്നുണ്ടു്. ആ സംഗതികളിൽ സാമാന്യമായി പ്രസ്തുതനിയമങ്ങളിലെ വകുപ്പുകളെ കഴിയുന്നതും അനുകരിക്കുകയും ചെയ്തിട്ടുണ്ടു്. കുടുംബഭരണത്തെ വ്യവസ്ഥപ്പെടുത്തുന്നതുപോലെ കുടുംബത്തിലുള്ള എല്ലാ അംഗങ്ങൾക്കും ചിലവിനു കിട്ടുവാനുള്ള അവകാശത്തേയും രണ്ടാമധ്യായംകൊണ്ടു സാധിച്ചിട്ടുണ്ടു്. തന്റെ ഭാര്യയേയും കുട്ടികളേയും സംരക്ഷിച്ചുംകൊണ്ടു് ധർമ്മമനുഷ്ഠിക്കേണ്ട ഗൃഹസ്ഥാശ്രമങ്ങൾക്കു ചിലവിനുകൊടുക്കുവാൻ കുടുംബത്തിലെ കാരണവനൊ മാനേജരൊ വിസമ്മതിക്കുകയൊ ഉപേക്ഷകാണിക്കുകയൊ ചെയ്താൽ കുടുംബവസ്തുക്കളിൽ നിന്നും തന്റെ ഓഹരിയും തന്നോടുകൂടിയും തന്റെ രക്ഷയിലും താമസിക്കുന്ന മറ്റംഗങ്ങളുടെ ഓഹരികളും അനുഭവത്തിനായി പ്രത്യേകമായി വയ്ക്കുവാനുള്ള അധികാരം നൽകീട്ടുണ്ടു്. തനിക്കു ഭാര്യയുടെ കുടുംബത്തിൽനിന്നും ലഭിയ്ക്കുന്ന സ്ത്രീധനം കുടുംബത്തോടുചേർക്കുന്ന ഗൃഹസ്ഥനു് അവരെ സംരക്ഷിക്കുന്നതിനു ബുദ്ധിമുട്ടുകൂടാതെ കഴിയ്ക്കുന്നതിനും യുവജനങ്ങളിൽ വളർന്നുവരുന്ന സ്വജാതീയ വിവാഹപ്രതിപത്തിയെ സഹായിക്കുന്നതിനും ഈ വകുപ്പുകൊണ്ടു് ഉദ്ദേശിച്ചിട്ടുണ്ടു്.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): ഏതുവകുപ്പു്?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*): പതിനെട്ടാമത്തെവകുപ്പ്.

നമ്പൂതിരി കനിഷ്ഠന്മാർ വിവാഹം ചെയ്ത് ഗൃഹസ്ഥവൃത്തി അംഗീകരിക്കായ്ക നിമിത്തം കന്യകമാർ നിത്യകന്യകാ ദുഃഖം അഭവിക്കുന്ന അനാശാസ്യതയെ ഒഴീകരിക്കുവാനും വൃഥാ കുടുംബംവിട്ട് അലഞ്ഞുനടക്കുന്ന കനിഷ്ഠന്മാരുടെ എണ്ണം ചുരുക്കുവാനും ഈ ബില്ലിനാൽ ഉദ്ദേശിച്ചിട്ടുണ്ട്. കാരണവക്കു കുടുംബഭരണത്തിൽ ഇപ്പോഴുള്ളതിൽ കൂടുതൽ ചുമതല ഈ ബില്ലിനാൽ നല്കുന്നതുകൊണ്ടു കണക്കുകളും മറ്റംഗങ്ങളെ തൃപ്തികരമായി കാണിക്കുവാൻ കൂടുതൽ ശ്രമം വഹിക്കേണ്ടിവരുന്നതിനാലും തറവാട്ടു വസ്തുക്കളുടെ ആദായത്തിൽ ഒരംശം മറ്റംഗങ്ങൾക്കു നല്കുന്നതിൽ അധികമായി കാരണവക്കു നല്കുവാൻ ഒരു വ്യവസ്ഥയും ഉൾപ്പെടുത്തീട്ടുണ്ട്. അതു പോലെ കാരണവരുടെ ഭരണം കുടുംബത്തിനു സാരമായ ദോഷം നേരിടുന്നതായി കുടുംബാംഗങ്ങളിൽ പ്രായം തികഞ്ഞ നാലിൽ മൂന്നു ഭാഗം അംഗങ്ങൾ ചേർന്ന് ആവശ്യപ്പെട്ടാൽ കാരണവനെ സ്ഥാനത്തു നിന്നും നീക്കം ചെയ്യുന്നതിനുള്ള വ്യവസ്ഥയും രണ്ടാമധ്യായത്തിൽ ചേർത്തിട്ടുണ്ട്.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : കുടുംബത്തിലുള്ള മുക്കാൽ ഭാഗം അംഗങ്ങൾ ചേർന്നു കാരണവൻ ഗുണവാനായിരുന്നാലും, തറവാട്ടിലേക്ക് ആദായം ഉണ്ടാക്കുന്നയാളായിരുന്നാലും കാരണവസ്ഥാനത്തുനിന്നും നീക്കാൻ സാധിക്കുമോ?

MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*) : അങ്ങിനെ ഉദ്ദേശിച്ചിട്ടില്ല.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : ബിൽകൊണ്ടു അതു വ്യക്തമാകുന്നുണ്ടോ?

MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*) : കുടുംബത്തിനു സാരമായ ദോഷങ്ങൾ കാരണവർ ചെയ്യുന്നപക്ഷം ഭൂരിപക്ഷം അംഗങ്ങൾക്കും ചേർന്നു കാരണവനെ മാറ്റാം എന്നു മാത്രമേ ബില്ലിൽ പറയുന്നുള്ളൂ.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): "സാരമായ ദോഷങ്ങൾ" എന്നു പറഞ്ഞിട്ടുണ്ടോ?

MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*) : ഉണ്ടു്. പക്ഷേ അതു വ്യക്തപ്പെടുത്തീട്ടുള്ളതു പോരെങ്കിൽ കുറെകൂടി വ്യക്തമാക്കുന്നതുകൊണ്ടു വിരോധമില്ല.

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[Mr. C. N. Tuppan Namputiri.]

പ്രായം തികയാത്ത അംഗങ്ങളുടെ രക്ഷാകർതൃത്വത്തെപ്പറ്റി നമ്പൂതിരിമാരുടെ ഇടയിൽ സർവ്വസമ്മതമായ യാതൊരു വ്യവസ്ഥയും ഇന്നു കാണുന്നില്ലാ. ഏതാനും ദിക്കുകളിൽ കൂട്ടുകുടുംബത്തിലെ കാരണവനൊ, മാനേജരൊ, മൈനറന്മാരുടെ രക്ഷാകർതൃത്വം വഹിക്കുന്നു. മറ്റു ചിലേടത്തു അച്ഛനൊ അമ്മയൊ അഥവാ ആ ശാഖയിലെ വയസ്സു മൂപ്പുള്ള ആളൊ ആ ഭാരം വഹിക്കുന്നു. കൂട്ടുകുടുംബങ്ങളിൽ ശാഖവഴിക്കുമ്പോൾ എല്ലാ ശാഖയിലും ഉൾപ്പെട്ട മൈനറന്മാരുടെ രക്ഷാകർതൃത്വം ഒരൊറ്റയാളിൽ ചെന്നു ചേരുന്നതു് അസുഖവും ശാഖകളായി പ്രത്യേകം താമസിക്കുന്നതിനു തടസ്ഥവും ആയിതീർന്നേക്കാം. അതുകൂടാതെ കഴിക്കുവാൻ രക്ഷാകർതൃത്വം ശാഖകളിൽ തന്നെ ഇരിക്കത്തക്കവിധം മൂന്നാം അധ്യായത്തിൽ വ്യവസ്ഥ ചെയ്തിട്ടുണ്ടു്. നമ്പൂതിരിമാരുടെ ഇന്നത്തെ ദായക്രമം അവ്യവസ്ഥിതമായിട്ടാണു് തീർന്നിരിക്കുന്നതു്. ഒരാളുടെ കാലശേഷം അയാളുടെ സ്വകാര്യസ്വത്തു കുടുംബത്തിലേക്കൊ ശാഖക്കൊ ഇരിക്കേണ്ടതെന്നു കോടതികളിൽ വാദവിഷയമാകുകയും രണ്ടു വിധത്തിലും വിധികളുണ്ടാകുകയും ചെയ്തിട്ടുണ്ടു. മേലുംഅങ്ങിനെയുള്ള വാദം തുടരാതെ കഴിക്കുവാൻ പിൻതുടർച്ചാവകാശം ഭാര്യയിലും മക്കളിലും ആകത്തക്കവിധം വ്യവസ്ഥചെയ്തിട്ടുണ്ടു്.

സർ, നമ്പൂതിരി സമുദായത്തിലെ ഒട്ടെല്ലാ നടപടികളെയും പറ്റി ഒരു പൂർണ്ണവിവരം എന്റെ സ്നേഹിതന്മാരായ ഈ സഭയിലെ ബഹുമാനപ്പെട്ട എല്ലാ മെംബറന്മാർക്കും അറിവുണ്ടായിരിക്കാവുന്നതുകൊണ്ടു ഞാൻ കൂടുതലായി ഇവിടെ വിസ്തരിക്കുന്നില്ല. നമ്പൂതിരി സമുദായത്തിന്റെ വംശ മഹത്വത്തിനും കൂട്ടുകുടുംബത്തിനും സാരമായ ഉലച്ചിൽ തട്ടാത്തവിധവും നവീനമായ അഭിനിവേശങ്ങളെ സാധിക്കത്തക്കവണ്ണവും അവർക്കു ധർമ്മാനുസൃതം ജീവിതം സുഖസംതൃപ്തിയൊടെ നയിച്ചുകൊണ്ടു പോകുവാൻ ഉതകുന്ന ഒരു നിയമനിർമ്മാണത്തിനു സമുദായം അത്യുൽക്കണ്ഠയൊടെ ആഗ്രഹിച്ചും കൊണ്ടാണിരിക്കുന്നതു്. ഇക്കഴിഞ്ഞ ഏതാനും വർഷങ്ങൾക്കു മേലായി സമുദായം ഈ വിധമൊരു നിയമനിർമ്മാണത്തിനു ശ്രമം ചെയ്യുവരുന്നുണ്ടു്. അതു സാധിക്കുവാൻ ഈ ശുഭസന്ദർഭം ഉപകരിക്കുമെന്നും ഈ സഭ അവർക്കു് ഒരു രക്ഷ നൽകുമെന്നും ഞാൻ വിശ്വസിക്കുന്നു.

MR. G. RAMAN MENON (*Mavelikara cum Kartikapalli*): അവതാരകൻ് മലയാളം മാത്രമേ അറിയാവൂ എന്നുള്ളതുകൊണ്ടു—

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MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*): ഈ ബിൽ സംബന്ധി ച്ചുള്ള വാദപ്രതിവാദം മലയാളത്തിൽ തന്നെ നടത്തണമെന്ന ഞാൻ ഈ സഭയോട് അപേക്ഷിക്കുന്നു.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): According to the rules, if a member is proficient in English, he should speak in English.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Sir, legislative measures affecting special communties are not generally very carefully considered by members of other communities. This may often be very dangerous. Each member of this council has the right and the duty to scrutinise all measures which come up before the council. Each of us, to whatever community he may belong, does not here represent that community alone, but all communities in the State. A Christian or a Nair member is bound to look to the safeguarding of the legitimate interests of the Namputiris just as much as a Namputiri member. It may happen that owing to want of knowledge about the interests of any particular community, the members belonging to other communities may repose a large degree of confidence in the information given by members belonging to the particular community. But this is not all. It is the duty of each of us as men and subjects of one State or Government to look to the legitimate interests of the members of all communities. (*Hear, hear*). There is a more compelling reason for each of us to scruitnise communal measures. The communities are interconnected. The laws or customs of one community affect the interests of other communities also in a vital manner. I shall illustrate this when I deal with the principles implied in some of the clauses of the present Bill. Sir, this is the proper opportunity for us to discuss the principles underlying the various provisions of the Bill, and if a proper scrutiny of them is not undertaken now, some time at a later stage technical objections may arise to the effect that the principle underlying any particular clause has been affirmed by this Council. So, I proceed now to a scrutiny of some of the principles implied in some of the clauses of the Bill so far as they have come to my knowledge on a hasty perusal of the Bill.

The first matter which struck my attention in regard to this Bill is sub-clause (5) of clause 2 which reads as follows:—

> "Outcaste" means a person whose connection with the family has been severed in the customary manner by *Udakavicchedam* (ഉദകവിച്ഛേദം) and who therefore loses all his or her rights in the tarwad.

This sub-clause taken along with clause 3 appears to me to involve a very mischievous and objectionable principle. Clause 3 of the Bill runs as follows: –

> Every male or female member of a tarwad has a properietary interest in its properties. No outcaste shall have any right to or interest in such properties.

The principle involved in the second sentence of that clause appears to be very objectionable. The term "outcaste" is defined in sub-clause (5) of clause 1.

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MR. G. SANKARAN POTI (*Co-opted*) : May I know from the member the number of outcastes he has come across among the Namputiri Brahmins ?

MR. G. RAMAN MENON (*Mavelikara cum Kartikapalli*): I shall answer questions afterwards. Whether a person is an outcaste or not depends upon the decision made by certain members belonging to the community. In my opinion, whether that excommunication or outcasting should leave that person wholly out of all interest in the properties of the tarwad is a debatable question. So far as my knowledge goes there have been High Court decisions to the effect that even persons who have been outcasted from their families are entitled to at least maintenance from the family. Even the Namputiri Brahmins who have been outcasted from their families have been allowed maintenance. If no interest in the property is allowed to outcastes, the maintenance also cannot be allowed. There may be cases of persons who may be outcasted for reasons which may or may not be equitable or justifiable. The customs of a community may be inconsistent with the general considerations of equity, and, in such cases, I think equity must prevail. So I strongly object to the principle contained in sub-clause (5) of clause 1 and clause 3 put together.

Then the next item is sub clause (8) of clause 2, which runs as follows :—

> "Grahasta" means any male member of the tarwad who leads a house-holder's (Grahasta's) life after marriage in due form with mantras.

It may appear to be a very innocent definition, but that sub-clause has to be read along with clause 18 of the Bill which runs as follows:—

> Every member of a tarwad who is a "Grahasta" shall be maintained by the tarwad whether such member lives in the the tarwad house or not ; but no other member of the tarwad shall be entitled to get maintenance unless he lives in the tarwad house.

The *Grahasta* in the technical sense has special rights which are denied to those who are *Grahastas* in the ordinary sense. In the ordinary sense *Grahasta* is a gentleman who is married and lives with his wife and it is not necessary that he should have children. It is a well-known fact that the Namputiri Brahmins have legal marital relation with the members of other communities such as Nayars. A Namputiri Brahmin can legitimately marry a Nayar lady. So, in the case of a Namputiri *Grahasta*, not in the technical sense, but in the legal and equitable sense, since he has married a Nayar lady, he has not got the privilege of a *Grahasta* in the technical sense. That I think is an unjustifiable invasion of the rights of individuals of other communities as well. Then again, a Namputiri Brahmin may have marital relations with a Kshatriya lady such as a Tirumulpad lady. Though the Tirumulpad lady can even cook food for the Namputiri Brahmin and live with him in the same house, he is not a *Grahasta* under this Bill. I think that such things are very objectionable and unreasonable. My objection applies to clause 19 also.

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The next clause to which I wish to draw the attention of the House is clause 13 which runs as follows : —

> Every major male member and, in the absence of such male member, every major female member till a minor male member attains majority, has a right to be the karanavan of the tarwad, in the order of seniority, on the death, retirement, renunciation or removal of the karanavan. But a person who on account of bodily or mental infirmity is incapable of managing the tarwad or a discharged insolvent shall not be so entitled.
>
> *Explanation.*—The seniority of females who have become members of the tarwad by marriage shall be determined with reference to the date of the marriage.

Whatever may be the custom among the Namputiris, I think such a provision seems to be unreasonable. The chief qualification for the management of a tarwad is experience, and naturally, the older member will have more experience of the world and its affairs than the younger members. It may happen that an older Namputiri lady may be married into the family only after a very young girl was married into that family. I think it is unfair to the older lady and it is also harmful to the tarwad to choose the young girl as the *Karanavan* of the tarwad. Therefore I object to the principle underlying the explanation to this clause.

Then my objection relates to the principle underlying clauses 22 and 23 of the Bill. Clauses 22 and 23 read as follows:—

> 22. On the death of a Namputiri male leaving him surviving widows who are members of the family undivided sons and unmarried daughters, they shall take the whole of the self-acquired and separate properties left by him at his death in equal shares. In the absence of the widow, the undivided sons and the unmarried daughters shall take the whole, and, in the absence of the widow and the undivided sons, the unmarried daughters shall take the whole.
>
> Provided that if an undivided son shall have predeceased the intestate, the lineal decendants of such son shall take the share which such son would have taken had he survived the intestate.
>
> 23. On the death of a Namputiri male leaving him surviving none of the heirs mentioned in the preceding section, the self-acquired and separate properties left by him at his death shall devolve on the following heirs in the order named, namely, the divided sons, brothers, father, mother, uncles and Dayadis.

At the outset, these clauses may appear to be quite harmless and that they do not interfere with the rights of other communities. But I have to point out that these clauses are against the provisions of the Nair Regulation and in an underhand manner try to nullify the provision in that Regulation, namely, Section 21 (1) which runs as follows:—

> On the death of a non-Nayar male marrying a Nayar female after the commencement of this Regulation and leaving him surviving by such marriage a widow or children or the lineal decendants of deceased children or all, they shall, if the deceased has also left heirs according to the law by which he is governed be entitled, after deducting the reasonable expenses of his funeral, to one-half of the self acquired and separate property left undisposed of by him at his death, and in the absence of heirs according to law by which he is governed, such widow or children or the lineal decendants of deceased children or all shall be entitled to the whole of such property.

In clause 22 of the present Bill, there is no such provision as that. It is not for tarwad properties, but for the separate and self-acquired properties, and even for that, the present Namputiri Bill wants to disinherit the wife and children of a Namputiri Brahmin if they belong to

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[Mr. G. Raman Menon.]

any other caste. That I think is quite unjustifiable. This clause might be innocent looking, but the mischief lies in the phrase in clause 22 of the Bill namely "widows who are members of the family, undivided sons and married daughters". By the simple phrase it is meant to nullify the effect of Section 21 of the Nair Regulation, because a Nair lady who may be the wife of a Namputiri Brahmin for all legal purposes serving him with all devotion, is declared to be not entitled even to the separate properties of the Namputiri Brahmin on the ground that she is not a member of the family. When a Namputiri Brahmin marries a Nair lady, she is not supposed to be a member of the family of the Namputiri. But if he marries a Namputiri lady, she is considered to be a member of his family. So by that innocent looking phrase the Nayar wife and children of the Namputiri Brahmin would be disinherited. This attempt to nullify the effect of a very recently passed Regulation is, to put it very mildly, unfair and shabby. So I refuse to affirm the principle contained in clauses 22 and 23 of the Bill.

The next clause to which I object to is clause 24 of the Bill which runs as follows:—

> On the death of a Namputiri female leaving her surviving her husband, sons and grandsons, the husband shall take the whole of the self-acquired and separate properties left by her at her death.
>
> In the absence of the husband, the sons shall take the whole in equal shares, and, in the absence of the husband and the sons, the grandsons shall take the whole in equal shares.

That provision also seems to be objectionable. Even if the Namputiri lady has children, the whole property is to belong to the husband. That is dangerous in the case of Namputiris who might have Nayar wives and owing to undue influence they may even pass their property to Nair wives and children. So in the interest of the Namputiris also such a provision is objectionable. On general considerations, it seems to be rather strange that a husband should claim the whole of the properties of his wife even when she has children. The natural thing to expect is when there are children all the properties should go to the children and not to the husband.

My next objection relates to the principle underlying clause 28 of the Bill which runs as follows:—

> Stridhanam received by a Namputiri male at the time of marriage shall be treated as tarwad property.

Sir, this also seems to be a very strange provision. The dowry should properly belong to the lady. If at all anybody can claim any right in that, it is only the husband or children for their maintenance, if any necessity arises, according to the Hindu Law. The provision that the *Stridhanam* of a lady should belong to the tarwad of the husband is rather strange. The provision that the *Stridhanam* which was derived from the female goes to the husband's tarwad altogether appears to be unfair. I find that there are several objectionable principles involved in some of the clauses of the Bill even on a hasty reading of it.

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Though there are some good things mentioned in the objects and reasons of the Bill, they are belied by the actual provisions in it. For example, it is stated in the statement of objects and reasons that provision is also made to give separate maintenance to those members who wanted to live separately. But, actually, the effect is, as I pointed out before, only a technical *Grahasta* who has married a Namputiri lady and not a Nayar or Kshatriya lady will be given that privilege.

Another clause to which I object to is clause 27 which runs as follows :—

> Tarwad properties shall be liable to be divided at the instance of any Grahasta member of the tarwad if the majority of the major members with the assent of the Karanavan of such tarwad consent to such division :
>
> Provided that, if the surviving members of a tarwad are all widows, any of them shall be entitled to get her share.

Well, from the way in which the Section begins, I was led to suppose that there would be reasonable provision for partition ; but, when I read the whole clause, it seems to me to be absolutely useless. It leaves the community just where it is. It would have been all right if partition had been allowed on condition that the majority of the major members of the tarwad assented to it. But that has not been done. The necessity for the assent of the *Karanavan* practically nullifies the whole provision. With the consent of the *Karanavan* they can probably do it even now. There is no need for a legislation for that purpose. So, that is only a seeming provision for partition. Therefore, the principle underlying that provision also seems to me to be objectionable, because it does not do what its beginning promises.

Sir, there may be other objectionable features in the Bill which may have eluded my hasty perusal. For example, there may be attempts to defeat creditors on the plea that there was no tarwad necessity for particular debts. Such things do affect other communities as well. It is idle at the present day to contend that a piece of social legislation for a particular community will not affect vitally other communities. So, I commend the clauses of this Bill to the close scrutiny of all the members of this Council, irrespective of the community to which they may belong. It seems to me that we should not in any way affirm the principles underlying the clauses above referred to. This has to be distinctly stated and provided for. Otherwise, technical objections may be raised afterwards to the effect that we have affirmed the principles underlying those particular clauses as well and that their deletion cannot, therefore, be discussed at a later stage. With these words, I request that the provisions of the Bill may be closely scrutinised by the members of this House before they give their assent to the reading of the Bill.

MR. G. NARAYANA PILLAI (*Tiruvalla*) : Sir, I appreciate the aspiration of the Namputiri community to take a progressive step in the matter of social legislation and I am in sympathy with the object with which the present Bill is introduced.

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[Mr. G. Narayana Pillai.]

The Bill aims to define and amend the law of succession and family management. As correctly observed in the statement of objects and reasons, the Namputiri tarwads have, in many instances, shown a tendency to decline; and the undefined and ill-regulated powers exercised by *Karnavans* are mainly responsible for this. Things have come to such a pass that karanavans could no longer keep junior members in leading strings. The junior members fret at and resent the arbitrary dispositions of the *Karanavans*. Nayars, Ezhavas and Nanjanad Vellalas similarly situated at one time have effected changes in their laws; and it is only natural that the Namputiris also should move forward and fall in line with the communities which surround them.

One of the general principles underlying the Bill is stated to be the removal of impediments on the growth of family life experienced by the younger members of Namputiri tarwads. This indeed is a healthy idea. The Namputiri Yogakshema Sabha, which is said to have accepted the principles of the Bill under consideration, has been agitating for some years past to popularise the marriage of the younger members within the community itself and the Bill also seems to aim at such a result. But the method adopted to secure this seems to be rather indirect, unavailing, and, in some instances, capable of defeating its own purpose. And in the anxiety to conserve the wealth of the Namputiris to themselves, I fear, more important and vital issues have been lost sight of. By clauses 18, 20, 22 and 27, the Bill provides that a *Grahasta* alone is entitled to separate maintenance or for an allotment of properties in lieu of maintenance, that he alone can claim a division of the family properties, and that only the caste wife or widow of a deceased Namputiri will be entitled to succeed to her husband's self-acquired and separate properties. A student or a public servant who might necessarily have to stay away from home is not entitled to ask for or obtain separate maintenance, however essential it may be to him and however affluent the tarwad may be. A *Grahasta* who gets an allotment of properties in lieu of maintenance may, the very next day, cease to be such, and it is not clear whether the tarwad could immediately resume the properties allotted to him. Again, to deny separate maintenance to the junior members who have already married outside the caste in accordance with the existing custom and usage and who are thereby under obligations to maintain their non-caste wife and children, will be an unfair and inequitable deprivation of their birth rights.

If the abovesaid provisions of the Bill become law, I fear the *Karanavans* will be interested in seeing that as few junior members as possible become *Grahastas*; for an increase in the number of *Grahastas* will only make the position of the *Karanavan* more and more insecure. Then again, the object of the restriction defeats itself in case a *Grahasta* member claims partition; because the other junior members also must inevitably get their shares separated then.

In the matter of intestate succession, the provisions of the Nayar Regulation are attempted to be over-ridden, and I cannot but protest

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against the unjustifiable exclusion, of non-caste widows and children, in Section 22 of the Regulation. I may also incidentally observe that the Bill makes no provision for succession to properties left by unmarried females at their death.

The provisions of Sections 24 and 28 will, I fear, have a result contrary to what is expected by the Bill. They take off the inducements which the younger members of the community may otherwise have to marry within their own fold. Section 24 excludes unmarried daughters from the list of heirs succeeding to a Namputiri female and thus make the girls turn out portionless; and Section 28 denies the married couple the right to keep the *Stridhanam* for themselves and to utilise it for their own advancement. These two provisions, I apprehend, will, if at all, only tend to make young men indifferent to caste-marriages.

Coming then, to the question of partition, it is said that joint families in India were impartible at the time the Namputiris migrated into Malabar and that the character of impartibility came to be accepted as a normal feature of the tarwads in the decades that followed. The conditions outside underwent a change. With the change of times, families became broken up and partition became the rule in families governed by Hindu Law. The evolution of society made partition inevitable in Malabar tarwads also and the Nayar, Ezhava and Vellala Regulations have provided for partition in one form or other. It is only in the fitness of things that Namputiris also should desire for partition and that some provision should be made for the same in cases of necessity. But, I fear, the provision inserted for this purpose is both incomplete and unworkable. No indication is given as to how the shares are to be fixed, *per capita* or *per stirpes*, whether females are to take their shares as full or as limited owners and whether unmarried females are entitled to a share of the family property or only to *Stridhanam*. It is also questionable whether *Karanavans* would ordinarily consent to partition, and I have my own doubts as to the feasibility of a partition based primarily on their consent. Under the hope that these and other objections may be considered at the later stages of the Bill and with the reservations and observations stated above, I agree to the principle of the Bill being accepted.

MR. M. SUBRAHMANYA PILLAI (*Agastiswaram*): Sir, I support the principle of the Bill. In doing so, I wish to say a few words about the community itself and also about some of the provisions contained in the Bill.

This is a small community whose population, I think, is only about 6,000. Nevertheless, it is one of the most important communities in the State. Their population would have been much larger but for the reason that the community is crippled by the peculiar custom prevailing among them by which only the eldest male member marries from his own community. The other members do not take part in the work of increasing their own population, but only help other communities. (*Laughter.*) It is a highly orthodox community and very backward in

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[Mr. M. Subramanya Pillai.]

education in the present sense of the term. Their marriage customs and customary rights of inheritance may appear very peculiar in our eyes; but, in spite of all that, it is our duty in legislating for them and to respect as far as possible the sentiments of the community itself. In legislating for a community it is our duty to view their sentiments not from our standard of life.

I will now point out certain provisions in the Bill that will appear to us to be very peculiar and perhaps not acceptable to the present day reformers.

Firstly, an out-caste who is subjected to the formality of *Udaka-vicchedam* is, according to this Bill, to lose all his rights in his tarwad property. I have yet to learn what *Udakavicchedam* means, and I hope my Namputiri friend will explain to us what it is.

Secondly, the *Stridhanam* received by a male member of the tarwad at the time of his marriage is to become the tarwad property of the husband, and not to be the separate property either of the husband or of the wife or of both.

Thirdly, in intestate succession, even the unmarried daughters are not entitled to inherit their mother's separate property, that is to say, the property of a woman never goes to a woman.

Fourthly, the seniortity of a female is to be judged not by her age, but by the date of her marriage.

MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*): സ്ത്രീധനം കുടുംബത്തിലേക്കു ചേർക്കുന്നതിന്റെ ഉദ്ദേശം വേറെ ചില സംഗതികൾ നിറവേറുന്നതിനാണെന്നറിയാമോ?

MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*): അതിനെപ്പറ്റി ആക്ഷേപം ഒന്നും പറയുന്നില്ലല്ലോ?

These are some of the provisions that, I think, we have to pay serious attention to. But so long as I am not aware of any serious opposition from any section of the community, I have no hesitation to support the principle of the Bill, even though I reserve my opinion on these provisions to some future stage of the Bill. I see that lately the community has begun to break the custom according to which only the eldest male member marries from their own community. The Bill now attempts to give its formal sanction to such marriages. Such sanction paves the way for the disruption of tarwad properties in the near future.

There are provisions allowing partition of tarwad properties, but I think most impraticable conditions are imposed for such partition. Again, I see a serious defect in the Bill. Even though partition under certain conditions is allowed, the Bill does not attempt to define the

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method of division that is to be adopted. While allowing partition in a community that was hitherto in possession of impartiable tarwad properties, it is highly necessary to avoid litigation, to clearly state the method of division to be adopted, and the proportionate share that each individual or group of individuals is to get. It does not even state whether individual or *Tavazhi* partition should be adopted, and also whether *per capita* or *per stirpes* is to be adopted, and also whether women, married or unmarried, are entitled to any share, and, if so, what that share is to be.

The Bill again attempts to perpetuate the existence of the *Karanavan* but to me it appears that impossible conditions are being imposed for his management.

Sir, I have enumerated some of the salutary provisions in the Bill and also some of its defects that I was able to gather at a glance through the provisions in the Bill, with the hope that they will receive due consideration at the hands of the Select Committee that is likely to be entrusted with the next consideration of the Bill. That the community is very badly in need of a law defining the powers and duties of the different members of a tarwad and also to remove the uncertainties of law in the matter of succession is beyond doubt and hence, with very great pleasure, I support the principle of the Bill.

MR. K. P. NILAKANTA PILLAI (*Chirayink'l*): Sir, I also rise to welcome the bill. But let me tell the mover of the Bill that I am not in perfect agreement with him in regard to many of the provisions in it. But for the statement made by the mover of the Bill that he has not the slightest objection to modify the provisions according to the suggestions made by the members of this House, I would not have found my way to welcome the Bill at all. I will tell the mover of the Bill frankly and in a straight-forward manner where the Bill is defective. I think, Sir, that the Bill, proceeds wholly on a defective vision. I am conscious of the fact that the law, with regard to Namputiri *tarwads* as at present administered, is unsatisfactory and on that account many *illams* are on the verge of ruin. The system of joint family has become impossible as much against the Namputiris as against the Nayars, the Ezhavas and the Vellalas. The Bill appears to have met with the approval of the several members of the community concerned. But this Council must take its stand on sound principles of legislation. The world having changed so far, it is impossible to preserve old conservative traditions intact. Self-interest is a more powerful agency than the memory of the past, and that self-interest is bound to split up *tarwads* into smaller groups. We hear so much about individual independence of action, and the Namputiri is no exception to the rule. They have also been drawn into the current of modern civilisation. Their habits have changed and, in place of the Namputiris of the ancient days who never thought of food until the daily ablusions and prayers have

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[Mr. K. P. Nilakanta Pillai.]

been performed, we find several who cannot get on without their bed coffee (*Laughter.*) I also find members of the community who live separately from their *tarwad* with their wife and children and there are many instances of Namputiri Brahmins who have betaken themselves to various industrial and commercial pursuits. Any law, therefore, which does not contemplate existing conditions is fore-doomed to failure.

There are two provisions in the present Bill, among others, which I for one am not able to accept. Firstly, the rule that property may be divided at the instance of *Grahasta* members only appears to me to be based on a very incorrect principle. Civil rights, especially proprietary rights on tarwad property, follow from birth and are not conditioned on acts to be performed by the individual in future. A member of an *illam* is a member for all purposes and today we find unmarried male Namputiris succeeding to the headship of the *illam* though there are other members who are *Grahastas* in the sense contemplated by the Bill. The attempt to restrict the rights of unmarried Namputiris is therefore clearly wrong. If the Bill provided that the Nambudiri male shall marry only a Namputiri female it would certainly have been more straight-forward. Curiously enough there are no provisions in the Bill with regard to marriage. May I ask the mover of the Bill what the legal effect of a marriage between a Namputiri male and a Nayar female is ? The Nayar Regulation recognises such marriages as valid ones and this Council cannot override the provisions of the Nayar Regulation with respect to that matter. The Nayar Regulation also provides in Section 21 that the Nayar wife and children of a non-Nayar male are entitled to one-half of his self-acquired and separate property and, in certain cases, even to the whole of his undisposed of property. Section 22 of the present Bill says that on the death of a Namputiri male his separate and self-acquired property shall devolve on his widows who are members of the family, undivided sons, and unmarried daughters and so forth. The words '*members of the family*' preclude the non-Namputiri wife and children from getting any share of his acquisitions. The question therefore will be whether Section 21 of the Nayar Regulation or clause 22 of the Namputiri bill should be followed. The Sections are inconsistent with each other and both are considered by the same legislature. The difficulty could have been avoided if only the mover, true to the generous impulses of his class, had inserted a few words regulating the rights of non-Namputiri wife and children.

MR. M. SIVATANU PILLAI (*Tovala*): May I know from the member whether he has any objection to the restriction of the marriages of Namputiris within their own community ?

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): That is not, first of all, left to me. Secondly, from the trend of my speech the member might have understood that, according to me, if the mover of the Bill wanted to restrict the marriages within their community alone he could have plainly provided for that in the Bill.

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MR. M. SIVATANU PILLAI (*Tovala*) : Will the member kindly say whether personally he has any objection to the marriage of Namputiris being restricted within their community itself ?

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): My idea has been clearly indicated in my speech. I will consider that question when that clause comes up for discussion.

From the supplementary provisions regarding partition also I am constrained to draw an adverse inference. It is provided in clause 27 that only a *grahasta* Nambudiri may ask for partition. That means that even if a Namputiri male lives for a long time with his non-Namputiri wife and begets a number of children who are all attached to him throughout life, he would be prevented from getting his share of the *tarwad* property, because the mover of the Bill fears that eventually the property may go to non-Namputiris. The Nayar Regulation on the other hand allows non-Nayar husbands of Nayar females to inherit their property in certain cases. I am obliged to say that the provision in the present Bill is very unsatisfactory and proceeds from a defective vision. The provision in clause 18 of the Bill to the effect that only *Grahastas* shall get separate maintenance is, to say the least, ridiculous. It is subversive of all principles of civil law. The mover of the Bill probably wants to prevent such Namputiri males as live with their non-Namputiri wives from getting separate maintenance. We did not expect this from a member of the Namputiri community which has built up an abiding reputation for justice and generosity. If the mover of the Bill does not want Namputiri males to marry non-Namputiri females, let him come out and enunciate the principle in plain and straight-forward language.

MR. M. SIVATANU PILLAI (*Tovala*) : Is the member condemning the mover or the provisions in the Bill ?

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): I am criticising the provisions, but I cannot forget the mover.

MR. M. SIVATANU PILLAI (*Tovala*) : Will the member in a straightforward manner give his opinion as to the restriction of the marriage of Namputiris within their community itself ?

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*) : I have already stated that it is only a question of detail which could be considered when the clause is being considered by the House. The member might have understood my idea from my speech.

Any attempt on the part of the mover to conceal the real motive within an apparently innocent definition of the word *Grahasta* is not likely to pass muster in this Council.

It is not my purpose, Sir, to say that the Namputiri community is actuated by any sinister motive. I am only speaking of the provisions in the Bill as they stand. I trust that these and other defects will be removed in the course of the passage of the Bill through the Select Committee. This piece of legislation is long overdue and I am glad to support the general principles of the bill.

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MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): സർ, ഇന്നത്തെ വാദപ്രതിവാദത്തിനു വിഷയമായിരിക്കുന്നതു തിരുവിതാംകൂറിലെ മലയാള ബ്രാഹ്മണരെ പൊതുവെ ബാധിക്കുന്നതായ ഒരു റസ്സല്യൂഷനാണ്. നമ്പൂതിരിമാർ അല്ലെങ്കിൽ മലയാളബ്രാഹ്മണർ ഒരു കാലത്തു് കേരളത്തിലെ പ്രധാനവർഗ്ഗക്കാരായിരുന്നു എന്നു ഗണിക്കേണ്ടതാണ്. പരശുരാമപ്രതിഷ്ഠിതങ്ങളായ നൂറ് ഗ്രാമങ്ങളും ഉപഗ്രാമങ്ങളും ഈ കേരളത്തിൽ ഉണ്ടായിരുന്നതിൽ തെക്കെ അറ്റത്തെ ഗ്രാമം ചെങ്ങന്നൂർഗ്രാമം എന്നാണു കേരളമാഹാത്മ്യത്തിൽ കാണുന്നതു്. ഈ ഗ്രാമത്തിൽ അകത്തു മൂവായിരവും പുറത്തു മൂവായിരവും ഇങ്ങനെ ആറായിരം ബ്രാഹ്മണഗൃഹങ്ങളും ഒരു കാലത്തുണ്ടായിരുന്നു. അകത്തു മൂവായിരം എന്നു പറയപ്പെടുന്നതു ഗ്രാമത്തിനകത്തു മൂവായിരവും പുറത്തുമൂവായിരം എന്നു പറയപ്പെടുന്നതു ഗ്രാമത്തിനു പുറത്തു ഉപഗ്രാമങ്ങളിലായി മൂവായിരവും ആണ്. മൂവായിരം ബ്രാഹ്മണഗൃഹങ്ങളും ഉണ്ടായിരുന്ന ചെങ്ങന്നൂർ ഗ്രാമത്തിനകത്തു് ഇപ്പോൾ എത്ര ബ്രാഹ്മണഗൃഹങ്ങളാണു സ്ഥിതിചെയ്യുന്നുണ്ടെന്നു നോക്കാം ഞാൻ കണക്കാക്കിയതിൽ ഇപ്പോൾ നൂറ് ബ്രാഹ്മണകുടുംബങ്ങളാണ് ശേഷിച്ചിട്ടുള്ളതു്. അവയിൽതന്നെ ഒരു കുടുംബം അടുത്ത പത്തുകൊല്ലങ്ങൾക്കുള്ളിൽ അന്യംനില്പാകത്തക്കപതനത്തിൽ എത്തിയിരിക്കുന്നു. ഓരോ കാലഘട്ടത്തിൽ എടുക്കുന്ന ജനസംഖ്യ കണക്കുകൊണ്ടും ക്രമേണ സമുദായത്തിലെ സംഖ്യ കുറഞ്ഞുവരുന്നതായികാണാം. ഇപ്പോൾ ആകപ്പാടെയുള്ള നമ്പൂതിരിമാരുടെ ജനസംഖ്യ ൪൦൦൦-ൽ പരം ഉണ്ടെന്നു തോന്നുന്നില്ല. ഇപ്രകാരം ഒരു ഗണ്യമായനിലയിൽ ബ്രാഹ്മണഗൃഹങ്ങൾ അന്യം നിൽക്കുന്നതിനും, അവർ ജനസംഖ്യയിൽ കുറഞ്ഞുവരുന്നതിനും ഉള്ള പ്രധാന കാരണം ഏതായിരിക്കാം? ഇവയ്ക്കെല്ലാത്തിനും കാരണം, മലയാളബ്രാഹ്മണകുടുംബം പഴയശാങ്കരസ്മൃതിയിലെ വ്യവസ്ഥയ്ക്കനുസരണമായ നടപടികളെ അനുഷ്ഠിച്ചുവരുന്നതാണ്. ഇതരസമുദായങ്ങൾ കാലാനുസരണം ആവശ്യപ്പെട്ടനുസരിച്ചു നിയമങ്ങളെ നിർമ്മിക്കയും ആ നിലയിൽ മുന്നണിയിൽ പ്രവേശിക്കയും ചെയ്തുകഴിഞ്ഞിരിക്കുന്നു. എന്നാൽ ഒരുകാലത്തു പ്രാബല്യത്തിലും ശ്രേയസ്സിലും ഇരുന്ന മലയാള ബ്രാഹ്മണസമുദായം ഏറ്റവും പരിതാപകരമായ നിലയിൽ എത്തിയിരിക്കുന്ന ഈ അവസരത്തിൽ ആ സമുദായത്തിന്റെ ശേഷിച്ച കുടുംബങ്ങളുടെ ശ്രേയൊന്മുഖത്തെ ലാക്കാക്കി കുടുംബഭരണത്തെ നിയന്ത്രിക്കുന്നതായ ഒരു ബിൽ മി: ഉപ്പൻനമ്പൂ

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തിരി ഈ സഭയിൽ ഹാജരാക്കിയതിന് അദ്ദേഹത്തെ ഹാർദ്ദമായി അഭിനന്ദിക്കുന്നു. എന്നാൽ ഈ ബില്ലിനെ ഇപ്പോഴത്തെ നിലയിൽ പാസ്സാക്കുന്നതിനു പലേ വൈഷമ്യങ്ങളും കാണുന്നുണ്ട്. മി: തുപ്പൻ നമ്പൂതിരി അദ്ദേഹത്തിന്റെ ആദ്യത്തെ ഈ ബില്ലു മുഖാന്തിരം വെളിപ്പെടുത്തീട്ടുണ്ടെങ്കിലും അദ്ദേഹത്തിന്റെ ഉദ്ദേശനിവ്വഹണത്തിനു മതിയാകാതെ തീന്നിട്ടുള്ള ഭാഗങ്ങളെ വിമർശനംചെയ്ത് ഒരു റെസ്സലേഷനാക്കി കല്പിക്കുന്നതിനുള്ള ചുമതല നമുക്കുള്ളതാണ്.

അദ്ദേഹത്തിന്റെ അഭിപ്രായം ഇപ്പോൾ പ്രസ്താവിച്ചു കഴിഞ്ഞു. വിവാഹം, ഭാഗം, കുടുംബഭരണം എന്നിവയാണ് ഈ ബില്ലിലെ മുഖ്യവിഷയങ്ങൾ. വിവാഹവിഷയത്തിൽ സജാതീയ വിവാഹമാണ് ബില്ലുകൊണ്ടു പ്രത്യക്ഷമായി വിവക്ഷിച്ചിട്ടുള്ളതു്. മലയാളബ്രാഹ്മണകുടുംബത്തിൽ പ്രായപൂർത്തിവന്ന് അവിവാഹിതകളായി അനേകം സ്ത്രീകൾ വാർദ്ധക്യദശയെ പ്രാപിച്ചു മരിച്ചിട്ടുള്ളതായി എനിക്കറിയാം. അനേകം കന്യകകളെ എളയതന്മാർ, നമ്പ്യാതിരിമാർ തുടങ്ങിയിതാഴ്ന്ന വർഗ്ഗത്തിൽപ്പെട്ടവർക്കു വിവാഹം ചെയ്തുകൊടുത്തിട്ടുള്ളതായും എനിക്കറിയാം. ഇപ്രകാരം മലയാളബ്രാഹ്മണകുടുംബങ്ങളിൽ അവിവാഹിതകളായ സ്ത്രീകളുടെ സംഖ്യ വർദ്ധിച്ചുവരുന്നതിനുള്ള കാരണം അവരുടെ സമുദായത്തിൽപെട്ട പുരുഷന്മാർക്ക് എല്ലാവർക്കും വിവാഹസ്വാതന്ത്ര്യം ഇല്ലായ്കയാണ്. സന്തതുല്പാദനത്തിനുമാത്രമാണ് മലയാളബ്രാഹ്മണർ വിവാഹകർമ്മം അനുഷ്ഠിച്ചുവന്നിട്ടുള്ളതു്. അതിലേക്കായി കുടുംബത്തിൽ മൂപ്പൻ മാത്രം വിവാഹം കഴിക്കയും, സന്താനോല്പാദനം ഒരു വിവാഹം കൊണ്ടു സാധിക്കാത്തപക്ഷം ആ ആൾതന്നെ പലേ വിവാഹം നടത്തുകയും ചെയ്കയാണു പതിവു്. ശേഷം അംഗങ്ങൾ വാനപ്രസ്ഥാശ്രമം സ്വീകരിച്ചുകൊള്ളണം. അവരുടെ ആചാരനടപടികളെ ക്രോഡീകരിച്ചു വ്യവസ്ഥചെയ്തിട്ടുള്ളതും ഇപ്പോൾ നടപ്പിലിരിക്കുന്നതുമായ ഒരു നിയമം അനേകശതവർഷങ്ങൾക്കു മുമ്പുനിർമ്മിച്ചിട്ടുള്ള ശാങ്കരസ്മൃതിയാണ്. ശാങ്കരസ്മൃതിയിലെ വ്യവസ്ഥകളെ വ്യതിചലിച്ചു നടക്കുന്നതിന് അവർക്കു വൈദീകാഭിപ്രായം സിദ്ധിക്കുന്നില്ല. ഒരു കാലത്തു നാലു വൈദീകന്മാരെ അവരുടെ സാമുദായികാചാരവിധികൾ കല്പിക്കുന്നതൈക്കോടതിയായി പരിഗണിച്ചുവന്നിരുന്നു എങ്കിലും ഇക്കാലം നമ്മുടെ ഹൈക്കോടതിയെപ്പോലെയുള്ള കോടതികളിലെവിധികല്പനകളെയാണ് അവർ സന്തോഷപൂർവ്വം സ്വീകരിക്കുന്നതു്. പഴയ മാമൂലിനെ ഇപ്പോൾ

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[Mr. Kallur Narayana Pillai.]

നടപടികൾകൊണ്ടു മിക്കവാറും നിഷ്പ്രഭമായി കഴിഞ്ഞിരിക്കുന്നു. ഈ സ്ഥിതിക്കു മൂപ്പനൊഴികെയുള്ള എല്ലാ അംഗങ്ങൾക്കും യഥേഷ്ടം ഗൃഹസ്ഥാശ്രമം സ്വീകരിക്കുന്നതിനുള്ള അധികാരം നൽകുന്ന ഒരു നിയമം ഉണ്ടാകേണ്ടതുതന്നെയാണു്.

എന്നാൽ അപ്രകാരമുള്ള വിവാഹം സജാതീയവിവാഹമായിരിക്കണമോ എന്നു മറ്റുചില സമുദായാംഗങ്ങൾക്കു സംശയം ജനിച്ചേയ്ക്കാം. സ്വവർഗ്ഗത്തിൽപ്പെട്ട കന്യകകളെ മറ്റൊരുവർഗ്ഗക്കാർക്കു വിവാഹം കഴിച്ചുകൊടുക്കുന്നതു് ആചാരനടപടികൾക്കു വിരുദ്ധമായിരിക്കുന്ന സ്ഥിതിക്കും അതു വർഗ്ഗത്തിൽപ്പെട്ട പുരുഷന്മാരെ ഇതരവർഗ്ഗത്തിൽപ്പെട്ട സ്ത്രീകളെ വിവാഹം കഴിക്കുന്നതിനു് അനുവദിക്കുന്നതുകൊണ്ടും ആണു് ബ്രാഹ്മണവർഗ്ഗത്തിൽ അവിവാഹിതകളായി അനേകം സ്ത്രീകൾ ശേഷിക്കുന്നതു്. ബ്രാഹ്മണവിവാഹമേ പാടൊള്ളു എന്നു വല്ല സമുദായവും അഭിമാനിക്കുന്നു എങ്കിൽ, ആ അഭിമാനത്തെ ബ്രാഹ്മണസമുദായത്തിന്റെ രക്ഷയെ ഉദ്ദേശിച്ചെങ്കിലും ദൂരെ കളയേണ്ടതാണു്. ഇപ്പോൾ നടപ്പിലിരിക്കുന്ന വിവാഹത്തെ സംബന്ധിച്ചു നിയമംമൂലം വല്ല പ്രത്യേക വ്യവസ്ഥയും ചെയ്യുന്നതു നന്നായിരിക്കുമെന്നല്ലാതെ ബ്രാഹ്മണയുവാക്കളെ ഇതരജാതി വിവാഹത്തിന്നായി പ്രേരിപ്പിക്കുന്നതോ അതിലേക്കു മാർഗ്ഗം നല്കുന്നതോ ആയ ഒരു പദ്ധതിയും ഈ നിയമത്തിൽ ഉണ്ടായിരിക്കാൻ പാടില്ലെന്നാണു് എന്റെ അഭിപ്രായം. അതിലേക്കു മഹാത്മാ തുപ്പൻനമ്പൂതിരിയുടെ ഉദ്ദേശം ഈ ബില്ലുകൊണ്ടു് അനുഭവത്തിൽ വരുമെങ്കിലും കുറെക്കൂടി വ്യക്തമാക്കി നിർദ്ദേശിക്കുന്നതിനു വിരോധമുള്ളതല്ലെന്നു ഞാൻ അഭിപ്രായപ്പെടുന്നു.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sarkar Vakil*): നമ്പൂതിരിമാരിൽ എളമുറക്കാർക്കു സജാതീയ വിവാഹം ചെയ്യുന്നതിനു നിയമപ്രകാരം തടസ്ഥമുണ്ടോ?

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): ശാങ്കരസ്മൃതിയനുസരിച്ചു തടസ്ഥമുണ്ടു്.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sarkar Vakil*): നിയമപ്രകാരം തടസ്ഥമുണ്ടോ?

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): നിയമപ്രകാരം തടസ്ഥമില്ലെങ്കിലും ഭ്രഷ്ടു കല്പിക്കും.

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MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara cum Kunnattur*) : ഇപ്പോൾ അനേകം നമ്പൂരികുടുംബങ്ങളിൽ സജാതീയ വിവാഹം ചെയ്യുവരുന്നുണ്ടെന്ന് അറിയാമോ?

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): ശാങ്കരസ്മൃതിയെ അവഗണിച്ച അങ്ങിനെ ചെയ്യാറുണ്ട്.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): ശാങ്കരസ്മൃതിയിൽ അപ്രകാരം ചെയ്യുന്നവർക്ക് പതിതപം കല്പിച്ചിട്ടുണ്ടോ?

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): പതിതപം കല്പിച്ചിട്ടുണ്ട്.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*) : ലീഗലായിട്ട വല്ല തടസ്ഥവും ഉണ്ടോ?

MR. KALLUR NARAYANA PILLAI (*Pattanamthitta*): ഇല്ല.

MR. A. K. PILLAI (*Karunagapalli*): May I know whether the members could be allowed to talk in Malayalam ?

PRESIDENT: It would require a large staff of translators, Mr. A. K. Pillai.

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): ഭാഗവിഷയത്തിൽ ഈ ബില്ല് എത്ര മാത്രം പ്രയോജനപ്പെടുമെന്നും സമുദായ അംഗങ്ങൾ ഈ ബില്ലിലെ നിർദ്ദേശങ്ങളോട പൂർണ്ണമായി അനുകൂലിക്കുന്നുണ്ടോ എന്നും എനിക്ക സംശയമാണ്. മലയാള ബ്രാഹ്മണ കുടുംബത്തിലെ സ്വത്തു ക്രട്ടവകാശപ്പെട്ടതാണ്. ഓരോ വ്യക്തിക്കും, അതായത് ഓരോ പുരുഷസന്താനത്തിനും ആ സ്വത്തിന്മേൽ അവകാശമുള്ളതാണ്. ഭാഗവിഷയത്തെ വിവക്ഷിച്ചിരിക്കുന്നതായ രണ്ടാം വകുപ്പ പ്രായോഗികമായി വരുന്നതല്ല. ഈ വകുപ്പുകൊണ്ടു കാണുന്നതു —

(എ) ഗൃഹസ്ഥനു ഭാഗത്തിനു ആവശ്യപ്പെടാം.

(ബി) മേജർ മെംബറന്മാരുടെ ഭൂരിപക്ഷവും സ്വീകരിക്കണം.

(സി) കാരണവൻ കൂടി അനുകൂലിയായിരിക്കണം.

ഈ മൂന്നു വ്യവസ്ഥകളും യോജിച്ച് ഒരു ഭാഗം നടക്കുന്നതു സാദ്ധ്യമല്ല ഗൃഹസ്ഥനായാലും, അല്ലെങ്കിലും, ഓരോ പുരുഷവ്യക്തിക്കും ഭാഗം ചോദിക്കുന്നതിനു അവകാശവും അപ്രകാരം ഒരു കോടതി മുഖാന്തിരം വിധിച്ചു കിട്ടുന്നതിനുള്ള സ്വാതന്ത്ര്യവും ഉണ്ടായിരിക്കേണ്ടതാണ്.

ഒരാളിന്റെ മരണശേഷം അയാളുടെ സ്വയാർജ്ജിതസ്വത്തിന്റെ അവകാശക്രമത്തെ വിവക്ഷിച്ചിരിക്കുന്നതായ ൨൨-ാം വകുപ്പ പ്രത്യേകവിമർശനത്തിനു വിഷയീഭവിക്കേണ്ടതാണ്.

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[Mr. Kallur Narayana Pillai.]

മലയാള ബ്രാഹ്മണകുടുംബങ്ങളം പഴയ മരുമക്കത്തായ നിയമത്തെ അസ്പദമാക്കിയും അനുസരിച്ചുമാണ് നടന്നുവരുന്നത്. എന്നാൽ നായർ കുടുംബങ്ങളിൽ സ്ത്രീ വഴിയുടെ സന്താനങ്ങൾക്കും ബ്രാഹ്മണകുടുംബങ്ങളിൽ പുരുഷന്മാരുടെ സന്താനങ്ങൾക്കും സ്വത്തവകാശം സിദ്ധിക്കുന്നു എന്നമാത്രമേ വ്യത്യാസമുള്ളു. സ്വയാർജ്ജിതസ്വത്തിന് അയാളുടെ മരണശേഷം അയാളുടെ അവിഭക്തപുരുഷസന്താനങ്ങൾക്കും അവിവാഹിതകളായ സ്ത്രീ സന്താനങ്ങൾക്കും തുല്യമായ അവകാശം സിദ്ധിക്കുമെന്ന ഈ വകുപ്പുകൊണ്ടു വിവക്ഷിച്ചിട്ടുണ്ട്. സ്ത്രീ സന്താനങ്ങൾക്ക് ഇപ്രകാരം തുല്യാവകാശം കല്പിക്കുന്നതു് അനുയോജ്യമായിരിക്കുമോ എന്നും പരിശോധിക്കേണ്ടതാണു്.

MR. G. SANKARAN POTI (*Co-opted*): ൻവൃ-ലെ നായർ റഗുലേഷനിൽ ഭാഗം അനുവദിച്ചിട്ടുണ്ടായിരുന്നോ?

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): ഇല്ലായിരുന്നു.

MR. G. SANKARAN POTI (*Co-opted*): ഈ നിയമം അത്യാവശ്യമായിട്ടുണ്ടാക്കിയതുകൊണ്ടു സാവധാനത്തിലേ ചെക്കാൻ നിവൃത്തിയുള്ളു എന്നു മെംബക്കു് അറിയാമോ?

MR. KALLUR NARAYANA PILLAI (*Pattanamthitta*): അതാണു ഉദ്ദേശമെങ്കിൽ വിരോധമില്ല.

൧൧൦൦-ലെ ൨-ാംറെഗുലേഷനായ നായർറെഗുലേഷൻകൊണ്ടു ബ്രാഹ്മണവിവാഹത്തിൽ അയാളുടെ പ്രതീകമായോ സ്വയാർജ്ജിതമായോ ഉള്ള സ്വത്തിന്റെ അംശത്തിനു നായർ ഭാര്യക്കു് അവകാശം കല്പിക്കപ്പെട്ടിരിക്കുന്ന വ്യവസ്ഥ ഈ ബിൽ പ്രയോഗത്തിൽവരുത്തിയ മി: തുപ്പൻനമ്പൂതിരി വിസ്മരിച്ചിട്ടോ അതോ അതിലെ വ്യവസ്ഥയെ ഗോപനം ചെയ്യുവാധിക്കാമെന്നു് ഉദ്ദേശിച്ചിട്ടോ ഈ ബില്ലിലെ ൨൨-ാം വകുപ്പിനെ ഭേദഗതിചെയ്തതെന്നു സംശയിക്കേണ്ടിയിരിക്കുന്നു. മി: തുപ്പൻനമ്പൂതിരിയുടെ നിർദ്ദേശത്തെ അനുകൂലിക്കുന്നതിനു ഞാൻ തയാർതന്നെ. ഇപ്പോഴും നടപ്പിലിരിക്കുന്ന വിവാഹങ്ങൾക്കുമാത്രം ആ നിയമം സംബന്ധിക്കുന്നതാണെന്നുള്ള ഒരു ഭേദഗതിവ്യക്തമായ ഭാഷയിൽതന്നെ ഈ ബില്ലിൽ ചേർക്കേണ്ടതാണെന്നും മാത്രമേ എനിക്കഭിപ്രായമുള്ളു.

കുടുംബഭരണ വ്യവസ്ഥയെ നിർദ്ദേശിക്കുന്നതായ ൨-ാം അദ്ധ്യായത്തിലെ വ്യവസ്ഥകളിൽ ചിലതിനെപ്പറ്റിയും എനിക്കഭിപ്രായവ്യത്യാസമുണ്ടു്. കുടുംബമാനേജരായ കാരണവനെ കേവലം ശമ്പളം പറ്റി ജോലിചെയ്യുന്നതായ ഒരാളിന്റെ സ്ഥാനത്തോടു സാമ്യപ്പെടുത്തിയിരിക്കു

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ന്നതു ശരിയല്ലെന്നാണു് എന്റെ അഭിപ്രായം. ഈ ബില്ലിലെ വ്യവസ്ഥയനുസരിച്ചു് ഒരു കാരണവനോ ഭരണക്കാരനൊ കണക്കു സൂക്ഷിക്കുകയോ അനന്തിരവർ അപ്രകാരമുള്ള കണക്കിനെകൊണ്ടു തൃപ്തിപ്പെടുകയോ ചെയ്യുന്നതല്ല. ഈ വ്യവസ്ഥ എത്രത്തോളം നടപ്പിൽ വരുമെന്നുള്ളതും സംശയമാണു്. ഇതിന്റെ ഫലമായി കാരണവനെ നീക്കം ചെയ്യുന്നതിനായുള്ള വ്യവഹാരം വർദ്ധിക്കുവാനേ തരമൊള്ളു. ഈ കൂട്ടുകുടുംബവ്യവസ്ഥയെ സ്ഥിരമായി പാലിച്ചുകൊണ്ടു പോകാമെന്നുള്ള അഭിപ്രായം സുസാദ്ധ്യമാകുന്നതുമല്ല. ഒരു കാരണവനെ ഭൂരിപക്ഷം മേജർ മെമ്പർമാർ ചേർന്നു് ഒരു ഹർജിമൂലം സ്ഥാനത്തുനിന്നും നീക്കംചെയ്യുക എന്നുള്ളതും ഒരു കഠിനമായ വ്യവസ്ഥയാണു്. ഒരു കാരണവൻ കാണയാധാരം പൊളിച്ചെഴുതികൊടുത്തു് അവകാശങ്ങളും പിരിക്കുന്നതിനും വസ്തുക്കളെ ആറുകൊല്ലത്തേയ്ക്കു വെറുംപാട്ടമേല്പിക്കുന്നതിനും ടെ-ം വ്യ-ം വകുപ്പുകൾ പ്രതിബന്ധമായി നില്ക്കുന്നുണ്ടു്. ഈ വ്യവസ്ഥയും കൂട്ടുകുടുംബത്തിനു ദൂഷ്യകരമായിട്ടുള്ളതാണു്.

ബില്ലിൽ നിർദ്ദേശിച്ചിട്ടുള്ള വ്യവസ്ഥകളും ബ്രാഹ്മണകുടുംബങ്ങൾക്കു് ഇപ്പോൾ നേരിട്ടിട്ടുള്ള വിപത്തിനെ പരിഹരിക്കത്തക്കവണ്ണം പര്യാപ്തമായിട്ടില്ല.

ഇനിയും അവസാനമായി എനിക്കു പറയുവാനുള്ളതു് ഉദകവിച്ഛേദം എന്ന ക്രിയയെ സംബന്ധിച്ചാണു്. ജാതിഭ്രഷ്ടു് എന്നർത്ഥമാകുന്ന (out-caste) എന്ന വിവരണംതന്നെ ഈ ബില്ലിൽനിന്നു് എടുത്തുകളയുകയും നാംവകുപ്പിൽ ജാതിഭ്രഷ്ടു കല്പിക്കപ്പെട്ടയാളിനു സ്വത്തിന്മേൽ അവകാശഹാനി നേരിടുന്നതാണെന്നുള്ള വ്യവസ്ഥയെ ഭേദപ്പെടുത്തുകയും ചെയ്യേണ്ടതാണു്. പഴയ ശാങ്കരസ്മൃതിയിലെ സ്മാർത്തവാചാരത്തേയും ഉദകവിച്ഛേദക്രിയയേയും തുടർന്നുകൊണ്ടു പോകണമെന്നാണു മിസ്റ്റർ തുപ്പൻ നമ്പൂതിരിയോ ആ സമുദായത്തിൽപ്പെട്ട അംഗങ്ങളൊ ആഗ്രഹിക്കത്തക്കതല്ല. സജാതീയവിവാഹം നിർബന്ധമായി വരുന്ന വിഷയത്തിൽ അവിവാഹിതകളായ സ്ത്രീകൾ ഉണ്ടാകുന്നതിനൊ അവരിൽ ഒരു ദോഷശങ്കയ്ക്കു് മാർഗ്ഗമാകുന്നതിനൊ സംഗതിയില്ല. ഈ വ്യവസ്ഥ സമുദായത്തിനു ആക്ഷേപകരമായിട്ടുള്ളതാണു് എന്നാണു് എന്റെ അഭിപ്രായം.

ഈ അഭിപ്രായത്തോടുകൂടി ബില്ലിലെ മൂലതത്വത്തെ ഞാൻ അനുകൂലിക്കുന്നു.

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MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I consider it a great privilege to be in a position to help to shape the ultimate form that this Bill will take. The Namputiris, though numerically very small, constituting only ·37 per cent. of the population in the State, are socially and spiritually the most important community in the State. In point of social position, they are inferior only to His Highness the Maha Raja though in certain respects they even occupy a higher position. While the Namputiris are the vicegerents of God, His Highness the Maharaja is only Sri Padmanabha Dasa. In matters of religious processions they have precedence over His Highness. A Bill affecting the well-being of such a community, is a matter of great concern to the State. It is especially so because they are inadequately represented in this Council. Under these circumstances, it would have been more proper if this Bill had been introduced as a Government measure. In that case, we would have had the guarantee of a preliminary enquiry into the actual need for such a measure and it would have been in the hands of a person who is accustomed to deal with legislative enactments. As it is, the measure is not only in the hands of a person who has had no legal training or experience in legislative matters, but also one who does not understand the language in which the Bill is drafted and in which the proceedings of the Council in regard to it will be conducted. I have very grave apprehensions about the fate of this Bill in the Council introduced as it is by a gentleman of that kind and supported by gentlemen who, perhaps, except in the matter of language, are in no better position than the mover himself. Now, Sir, the responsibility of this House, especially of the non-official side, is therefore very great and the position of the non-Brahmin members in this House is very delicate.

The Namputiris of Malabar have been not only the leaders of society in social and religious matters, but they have been also our law-givers. Today, the position, as the irony of fate would have it, is reversed and the non-Brahmins have got to give the law to the Namputiri Brahmins. So far as Travancore is concerned, there has been no public enquiry, except what was made by the members of the community themselves in regard to the conditions of Malayala Brahmins in the State, into their social or economic condition, and the need for legislation of the kind now before the House. It appears to me that this is not a measure on which only one opinion is possible. There may be people among the community who hold a different opinion on various provisions of the Bill and even with regard to the necessity of the Bill itself.

MR. G. SANKARAN POTI (*Co-opted*): Has the member received any representation to that effect?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I have not received any. But from the proceedings of meetings and conferences in Cochin and other places, I think there is a strong body of opinion against it. I think there were some representations in the Assembly also. It is unfortunate that one of the members of the

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society who hold an opposite view of the measure is not in the Council to represent that view. It is therefore necessary that we should, in recognising the principle of the Bill, try to place before the Council impartially and dispassionately both sides of the question in as strong a light as possible, perhaps the objections to the Bill more than the merits of it.

In my opinion, as far as I have been able to study, it appears to me, Sir, that the present unsatisfactory condition of the community is very much exaggerated. My learned friend Mr. Kallur Narayana Pillai said that at one time there were 6,000 Namputiri *illams* in Chengannur, *i. e.*, 3000 living inside the village and the other 3000 outside the village, in small groups. That is a statement without basis in fact. There is no data from which we could form any opinion in regard to the correctness of the statement. If we take the Census Report as the best guide upon this matter, we find that the Malayala Brahmins who include Namputiris and for whom this Bill is intended increased from 10,000 and odd in 1911 to 14,000 in 1921; that is, in 10 years, the increase has been 41 per cent., whereas among the Nayars the increase has been only 21 per cent.

One of the objects of the Bill is to encourage junior members to marry within the caste so as to reduce the number of old maids, but if we examine their civil condition properly, we shall find that here also the evil is much exaggerated. I find from the Census Report that out of a total number of 3,793 girls of marriageable age, counting from 12 years upwards, 3,113 were married while 618 only remained unmarried *i. e.*, only about 15 per cent., whereas among the Nayars 28 per cent. of the girls of marriageable age remained unmarried.

MR. N. KUMARAN (*Nominated*): Is the member aware of the fact that the community is polygamous?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I am aware of that. Polygamy may account for some of the marriages, but not to such a very great extent. As I said before, only 15 per cent. of girls of marriageable age in the Namputiri community remained unmarried while the corresponding per centage among Nayars was 28. I think a higher percentage of unmarried girls will be found not only among the Nayar community but also in other communities though I have not taken the figures with regard to other communities. The remedy suggested for reducing the number of numarried girls is that all the males should marry. Now, if all the male members married the girls of marriageable age will proportionately increase and I fail to see how that can be a remedy for reducing the number of unmarried girls in the community. Therefore, there is no foundation for the apprehension that the community is decreasing in numbers and will die out in course of time.

MR. G. SANKARAN POTI (*Co-opted*): Is the member of the opinion that this small number in the Namputiri community is sufficient?

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MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I am not of that opinion. On the other hand, I would like to have a large number of Namputiris in Travancore. Originally, they formed a very small number and they are increasing in proportion to the original number. We cannot say that owing to their civil condition, they are in a very backward state altogether.

So far as their economic condition is concerned, the community is no doubt in a backward condition and that is due in my opinion to the fact that the members of the community have not yet begun to take to profitable pursuits. Their only occupation is priesthood, and, for that occupation, only a small number of people is wanted; and therefore the rest of the people have absolutely no work. They do not know agriculture. They have not taken to English education and therefore they have practically no representation in the public service. They have not taken to industrial pursuits either and therefore, naturally, they have to fall back for their maintenance and upkeep upon the income of the properties which the *tarwads* possess. Now, with this increasing population, 41 per cent. in a decade, undoubtedly, the property possessed at present by the community must gradually cease to be able to maintain the increasing population in the community. Therefore, naturally, their economic condition must deteriorate. Their present unsatisfactory economic condition is also due to mismanagement in *tarwads*. From a book recently published *i. e.*, the Encyclopædia of the Madras Presidency and the Ancient States, published in 1920, I find that during the past two decades, *i. e.*, from 1900 to 1920, as many as 2,736 *kanapattoms* were executed by Namputiri *illams* involving 8,000 acres of lands. They have heavily encumbered *jenmom* lands covering an area of about 6,000 acres and absolutely parted with their rights over 1,500 acreas approximately. The total amount of indebtedness excluding *kanam* transactions may be estimated at about 10 lakhs of rupees. This may be accounted for by the mismanagement in the *tarwads* and also probably by the greater strain put upon the resources of the *tarwad* for maintaining the increasing number of members of the community. So, I believe that certain rules restricting the powers of the *Karanavans* and improving the status of the *Anandiravans* may go to some extent in alleviating their present economic distress by improving the management of the estates. But that alone will not go far in improving the economic condition of the community, as there are also other reasons which go to make that condition, as I have already stated. Further, the remedy suggested for removing the law of old maids, *viz.*, that all the male members of the community should marry from among the community itself, is not likely to be conducive to the improvement of the ecconomic well-being of the community. These junior members who want to marry in the community have no independent means. They do not work and they are unable to maintain themselves by their own labour. As I have stated, they have to fall back upon the income of the land which the tarwad possesses and if all the members of the community marry within the

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community, the community will multiply unduly, the resources of the *tarwads* will be insufficient for their maintenance, the properties will have to be divided into small parcels and ultimately even the small resources they have got will melt away. Probably, I am exaggerating the situation a little, but it is better to do so rather than minimise the evils.

MR. M. SIVATANU PILLAI (*Tovala*) : Can they not marry from outside the community ?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*) : Yes.

MR. M. SIVATANU PILLAI (*Tovala*): Have not they to maintain their wife and children ?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): As to whether they do that now is a matter which you know as well as I.

So, what is a remedy for one evil will lead to a greater evil which it may not be possible for the community in the long run to remove. The first thing I would advise the members of the community to do is to equip themselves for industrial enterprises and try to make a living out of their own individual labour rather than depend upon the resources of the tarwad. In my opinion, therefore, the Bill as drafted will not go very far in ameliorating the present social or economic condition of the community, but on the other hand in some respects may harm the community. But there are also some salutary provisions in the Bill for the management of *tarwads*, for providing for the maintenance of junior members, for regulating the system of inheritance and so on, and in regard to which I think a Bill is necessary. With these preliminary remarks, I have great pleasure in accepting the principle of the Bill in a general way.

Sir, I have made these preliminary observations in order that there may be no misapprehension afterwards as to my exact position.

Coming to the provisions of the Bill, it appears to me, Sir, that the Bill is ill-drafted—I may even say loosely drafted—and is very inadequate in its provisions. This Bill does not purport to be an exhaustive codification of the Malabar law or the law governing the Malabar Brahmins. It merely purports to introduce certain beneficial changes in the rules of Malabar law as followed by the Malabar Brahmins and also to define certain rules regarding intestate succession which are doubtful or vague. The learned mover of the Bill himself in his statement of objects and reasons says :

> To make provision for the better management of the tarwads of the Namputiris, to define and limit the powers of the Karanavan, to improve the rights of the junior members and to lay down the rules of intestate succession in respect of the self-acquisition of the Namputiris are the important objects aimed at in the Bill.

Further, clause 29 lays down :

> Nothing in this Regulation shall affect the existing rules of law, customs or usage except to the extent hereinbefore expressly provided for.

Therefore, *prima facie*, rules of Malabar law except to the extent stated specifically are not intended to be affected by this Bill. Certain

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changes have been sought to be introduced for the purpose of improving upon these rules, or superseding such of them as are found to affect the community prejudicially. In that view, it appears to me that many of the provisions of this Bill are superfluous. I will refer in this connection to clauses 4, 6, 9, 10, 13 and 15. For instance, clause 4 says:

The Karanavan has the right to be in possession and management of the properties of the tarwad and of the temples and other institutions over which the tarwad has Uraima or such other right.

These are the ordinary duties of the *Karanavan* at present.

Then again,

No debt contracted by the Karanavan or other managing member shall bind the tarwad unless it be for tarwad necessity.

Again,

Where a Karanavan creates a mortgage without any term in respect of tarwad property or incurs a debt alleging the existence of tarwad necessity, such necessity shall, as between the mortgagee or creditor on the one part and the members of the tarwad who have not assented to the mortgage or debt on the other part, be presumed to have existed if the mortgagee or creditor, after using reasonable care to ascertain the existence of such necessity, has acted in good faith.

No doubt, there is such a provision in the Nayar Regulation also.

Every major male member and, in the absence of such male member, every major female member till a minor male member attains majority, has a right to be the Karanavan of the tarwad in the order of seniority on the death, retirement, renunciation or removal of the Karanavan. But a person who on account of bodily or mental infirmity is incapable of managing the tarwad or a discharged insolvent shall not be so entitled.

Then, we have

Every member of a tarwad has the right to seek the removal of a Karanavan by a decree of court for incapacity, misconduct or mismanagement of the tarwad.

These are the ordinary rules of Malabar law in regard to which no change has been sought to be introduced by the Bill, and as this does not purport to codify exhaustively the Malabar law on the subject, it is quite unnecessary to import all these well-known and well-accepted rules of Malabar law into this Bill.

Coming to the other provisions of the Bill, as has been already pointed out, I should take very serious objection to the provision for disinheriting the so-called out-castes. Clause 3 says:

Every male or female member of a tarwad has a proprietary interest in its properties No outcaste shall have any right to or interest in such properties.

Now, Sir, so far as I am able to see, there are only two cases in which a member of a tarwad becomes an out-caste. One of those cases is by his becoming a convert to some other religion, such as Christianity or Mahomedanism. The other is by what is known as the *Smartavicharam*. This clause, as it now stands, includes both these kinds of out-castes. Whatever may be said in regard to people becoming converts to other religions, so far as *Smartavicharam* is concerned, I should unhesitatingly protest against any provision being introduced in this Bill which will have the effect of perpetuating that inhuman

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and barbarous custom. The *Smartavicharam* by which sometimes innocent men and women are sent out of the tarwad is conducted in a manner not only opposed to all principles of natural justice, but the procedure adopted is opposed to all known rules of jurisprudence. The *Smartavicharam* not only entails the outcasting of the lady, but it very often ends in the destruction of the family itself. As this is a very important matter, I would invite the attention of this House to a description of the *Smartavicharam* in W. Logan's *Malabar Manual*, page 124. I shall just read only some of the paragraphs which appear to my mind to be very important.

When a woman is suspected by her own kinsmen or by neighbouring Brahmins of having been guilty of light conduct, she is, under pain of excommunication of all her kinsmen, placed under restraint. The maid-servant, who is indispensable to every Namputiri family, if not to every individual female thereof, is then interrogated, and if she should criminate her mistress, the latter is forthwith seggregated and a watch set upon her. When the family can find a suitable house for the purpose, the sadhanam is removed to it; otherwise she is kept in the family house, the other members finding temporary accommodation elsewhere.

The examination of the servant maid is conducted by the Namputiris of the Gramom, who in the event of the servant accusing her mistress, proceed without delay to the local chieftain who has the power to order a trial. And authority is granted in writing to the local *smartha*, who in turn calls the usual number of *Mimamsakas*.

* * * * *

The accused, who is still strictly *gosha* is questioned through the medium of the maid, and she is made to admit that there is a charge against her. This is the first point to be gained, for nothing further can be done in the matter untill the accused herself has made this admission

This point, however, is not very easily gained at times, and *smartha* has often to appeal to her own feelings and knowledge of the world and asks her to recollect how unlucky it would be that a Namputiri female of her position should be turned out of her parents' house and placed where she then was unless there was some cause for it.

In the majority of cases, this preliminary stage is got over with little trouble, and is considered a fair day's work for the first day.

The *smartha* and his colleagues then return to the assembly and the former relates in minute detail all that has happened since he left the conclave.

That is the first day.

When the day's proceedings are finished, the members of the tribunal are sumptuously entertained by the accused's kinsmen, and this continues to be done as long as the enquiry lasts. A trial sometimes lasts several years, the tribunal meeting occasionally, and the accused's kinsmen being obliged to entertain the members and any other Namputiris present on each occasion, while the kinsmen themselves are temporarily cut off from intercourse with other Brahmins pending the result of the trial, and all *sraddhas* are stopped. The reason for this is that, until the woman is found guilty or not, and until it is ascertained when the sin was committed, they cannot, owing to the probability that they have unwittingly associated with her after her disgrace, be admitted into society until they have performed the expiatory ceremony.

* * * * *

In former days, when the servant accused her mistress and there was other evidence forthcoming, but the accused did not confess, various modes of torture were had recourse to in order to extort a confession, such as rolling up the accused in a piece of matting and letting the bundle fall from the roof to the courtyard below. This was done by women and the mat supplied the place of the *purdha*. At other times, live rat-snakes and other vermin were turned into the room beside her, and even in certain cases cobras, and it is said that if after having been with the cobra certain length of time and unhurt, the fact was accepted as conclusive evidence of her innocence.

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In cases when the accused offers to confess she is examined, cross-examined and re-examined very minutely as to time, place, person, circumstances, etc., etc., but the name of the adulterer is withheld to the very last. Sometimes a long list of persons is given and similarly treated.

Innocent persons are sometimes named and have to purchase impunity at great expense. In one case, a woman who had indicated several persons was so nettled by the continual "who else"? "who else"? of the zealous scribe who was taking down the details, that she at last to his intense astonishment, pointed to himself as one of them, and backed it up by sundry alleged facts.

The persons accused by the woman are never permitted to disprove the charges against them, but the woman herself is closely cross-examined and the probabilities are carefully weighed. And every co-defendant except the one who, according to the woman's statement, was the first to lead her astray has a right to be admitted to the boiling oil-ordial as administered at the temple of Suchindram in Travancore. If the hand is burnt, he is guilty, if it comes out clean he is judged as innocent. The ordeal by weighment in scales is also at times resorted to. The order for submission to these ordeals is called *pampu* and is granted by the president of the tribunal. Money goes a long way towards a favourable verdict or towards a favourable issue in the ordeals.

* * * *

Sometimes the greatest difficulty is experienced in getting her to confess, but this is usually brought about by the novelty of the situation, the scanty food, the protracted and fatiguing examination, and the entreaties of her relatives who are being ruined and by the expostulations and promises of the *Smartha*, who tells her it is best to confess and repent, and promises to get the chief to take care of her and comfortably house her on the bank of some sacred stream where she may end her days in prayer and repentance. The solemnity of the proceedings too has its effect. And the family often come foward, offering her a large share of the family property if she will only confess and allow the trial to end.

* * *

When the trial is finished, a night is set apart for pronouncing sentence. It takes place in the presence of the local chieftain who ordered the trial.

A faithful and most minutely detailed account of all the circumstances and of the trial is given by the *Smartha*, who winds up with the statement that his "child" or "boy" (a term applied by the Namputiris to their east coast Pattar servants) will name the adulterer or adulterers. Thereupon, the servant comes forward, steps on to a low stool, and proclaims the name or names. This duty is invariably performed by a man of the Pattar caste. It is essential that the man who does it should himself be a Brahmin and as no Namputiri or Emprantiri would do it for love or money, a needy Pattar is found and paid handsomely for doing it. Directly he has performed the duty, he proceeds to the nearest piece of water, there to immerse his whole body and so wash away the sin he has contracted.

The next proceeding, which formally deprives the accused woman of all her caste privileges, is called the "Kaikkotial" or hand-clapping ceremony. The large palmyra leaf umbrella with which all Namputiri females conceal themselves from praying eyes in their walks abroad is usually styled the "mask umbrella" and is with them the outward sign of chastity. The sentence of excommunication is passed by the *Smartha* in the woman's presence, and thereupon the accused's umbrella is formally taken from her hands by a Nayar of a certain caste, the pollution-remover of the *desam*. With much clapping of hands from the assembly, the woman is then instantly driven forth from her temporary quarters and all her family ties are broken. Her kinsmen perform certain rites and formally cut her off from relationship. She becomes in future to them even less than if she had died. Indeed, if she happens to die in the course of enquiry, the proceedings go on as if she were still alive, and they are formally brought to a conclusion in the usual manner by a verdict of guilty or of acquittal against the men implicated.

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The woman thus driven goes out where she likes. Some are recognized by their seducers, some become prostitutes, not a few are taken as wives by the Chetties of Calicut. A few find homes in institutions especially endowed to receive them.

Such is Smarthavicharam for which legislative sanction is sought.

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): പത്തനംതിട്ട നിപ്പുറം പന്തളത്തു് എണ്ണശേരിമഠത്തിൽ ഒരു സ്മാർത്തവിചാരം നടന്നതായിട്ടു് അറിയാമോ?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I don't know.

MR. A. K. PILLAI (*Karunagapalli*): May I know from the member an idea of the number of *Smartavicharams* in a decade?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): The number of Namputiris is very small and consequently the number of *Smartavicharams* would be very small.

MR. A. K. PILLAI (*Karunagapalli*): May I know how many were conducted during the last ten years?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I do not know. I have not got the statistics with me, but I have come across persons who have been the victims of the *Smartavicharams*. Very recently, in one of the cases that I conducted was a document which was executed for Rs. 2,000 for conducting a *Smarta* enquiry. Some twenty years ago, I came across a girl who was outcasted by a *Smartavicharam* and she went and occupied a house belonging to the family, which was unoccupied, Then the members of the *tarwad* wanted to oust her. For that purpose, they did not go to a law court, but took the law into their own hands and collected a lot of rowdies and forced her to go out of the house. This created a riot, and I had to defend some of the accuseds in that case. Such things have taken place in my own experience.

I submit Sir, that perhaps much of the rigours of this *Smartavicharam* have now been removed and I expect that when the community becomes more educated and good sense prevails, this *Smartavicharam* will cease to exist. Let us allow it to die in a peaceful manner rather than prolong its struggles by providing for it in a legislative enactment. Let us not give it the sanctity of law. Therefore, I am unhesitatingly against this provision against the so-called outcastes. It blesses neither the lady nor the gentlemen who are out-casted nor even the community or family from which they are out-casted.

MR. K. K. THOMAS (*Kottayam*): May I know from the member what the opinion of the community itself is in regard to it?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): Nobody knows about it. That is why I say that we are in the dark. There may be illiterate members in the community who may want the custom to continue while there may be progressive members of the community like the gentlemen who represent the community here who may like that it should die out. So we cannot say exactly how the community will view this matter at present.

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MR. C. P. THOMAS (*Nominated*): May I know from the member whether there have been instances where the accused has gone to a court of law?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): Oh yes. There have been many instances. In fact, in 19 T. L. R., there is a case where a gentleman went to court for recognition of his legal rights on the ground that he was not heard and proper evidence was not taken before he was out-casted; and his rights were confirmed. We have read in papers of several such *Smartavicharans* and also of a case in which a whole village was almost out-casted. The lady accused in the case kept a regular diary of the names of persons with whom she had connection, and all of them were outcasted. That is a fact.

MR. C. P. THOMAS (*Nominated*): Does the court recognise this?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): Yes. Under these circumstances, I have very great hesitation in giving my assent to this clause in the Bill.

Coming to the other provisions in the Bill, some of the objections have been already brought to the notice of the House. So far as clause 5 is concerned, the keeping of accounts by a *karanavan* was a matter considered at the time when both the Ezhava and the Nayar Regulations were discussed in this House and it was found impracticable. The *karanavan* may not be a literate person. In that case, he will have to utilise the services of an accountant and he himself will not be able to check the accounts. Under these circumstances, it was found impracticable and unnecessary to insist upon the *karanavan* to keep accounts. Everybody who is acquainted with accounts knows that it is the easiest thing to cook up accounts, especially when it relates to the transactions of a Malabar family or *tarwad*. So I do not think any useful purpose will be served by retaining that provision.

Clause 16 says:

> On an application made to the District Court within whose limits the tarwad is situated by three-fourths of the major members of a tarwad excluding the karanavan, for his removal from karanavanship, the court shall, after making such enquiry as is necessary and on being satisfied as to the truth of the application, pass an order for his removal and such order shall have the force of a decree.

It is not clear as to what is meant by "truth of the application." I do not know whether the mover means the genuineness of the application, *i. e.*, whether it is signed by the persons purporting to file the application, or whether it means the truth of the allegations contained in the application. If it merely refers to the genuineness of the application it would come to this. On the filing of an application by three-fourths of the members of the *tarwad* for removing the *karanavan*, though there might be no vaild ground for his removal, he will have to be removed. That is unjust. If, on the other hand, by the

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truth of the application the mover means the truth of the allegations contained in the application, then it appears to me that it is restricting the powers of the *anandiravan* because, if proper grounds can be shown, it is not necessary that three-fourths or any proportion or any number of the members of the *tarwad* should file an application. It is enough if one single member files a suit showing proper grounds for the removal of the *karanavan*. If these allegations are well-founded the *karanavan* will be removed from his office. Therefore, if the truth of the application merely means the genuineness of the application, it appears to me that the provision is unjust. But, if, on the other hand, as I have already submitted, the truth of the application means the truth of the allegations in the application, I submit that it unduly restricts the powers of the *anandiravans* to remove the erring *karanavan* from his office of *karanavanship*.

From clause 17 it is not clear whether the *karanavan* is given an additional remuneration for managing the affairs of the *tarwad*. In the first place, it appears to me that giving remuneration to the *karanavan* of a *tarwad* detracts from the position of dignity which he holds in the *tarwad*. He is the born head of the family who is entitled to manage the affairs of the *tarwad*, while all the members are bound to pay homage to him, and to obey him. But to make him a paid servant does not add to the dignity of his office. Secondly, the provision dose not make it clear as to whether he has to maintain himself out of this remuneration or whether he will be allowed to maintain himself out of the proceeds of the family property and in addition he will be allowed to appropriate a certain portion of the income of the *tarwad* as remuneration.

Coming to clause 18, I consider, Sir, that this is a very retrograde measure. It seeks to make a distinction between *anandiravans* who marry in the caste and *anandiravans* who do not either wish to marry or marry outside the community in regard to the granting of separate maintenance. The present tendency of courts in regard to *marumakkathayam tarwads* has been to encourage the award of separate maintenance whether the *anandiravan* is living in the *tarwad* house or outside it or in his wife's house. The tendency of the courts, the progressive tendency I should say, has been to allow separate maintenance, to all the members of the *tarwad*. Now this provision restricts the granting of such separate maintenance to members of the *tarwad* who marry in the caste. That is an invidious distinction for which there is absolutely do justification.

Clause 19 says:

> A Grahasta who lives separate and gets separate maintenance from the tarwad is also entitled to get maintenance for the other members of the tarwad who live with him or under his protection.

Now it is not clear as to who are meant by "the other members". Probably what the mover means is his wife and children who are expected to live with him. If that is so, it should be expressly stated. But, if, on the other hand, it means any other member, it will defeat the previous provisions of the Bill because any member who is

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not a *grahasta*, if he wants separate maintenance, has only to go and live with a *grahasta* living with his wife and children. That could hardly have been intended.

MR. M. SIVATANU PILLAI (*Tovala*): Does it not contemplate minors living along with the *grahasta*?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I only said that the mover may probably have in his mind the wife and children living along with the *grahasta*, and, if that is so, it must be specifically stated.

Clause 20 reads as follows:—

> If a karanavan refuses or neglects to give the maintenance referred to in the preceding Section, such member shall be entitled to get separate possession for enjoyment of his share in the tarwad properties and also of the shares of those members who live with him or under his protection and he shall have all the rights and liabilities of a karanavan mentioned in this Chapter with respect to such properties.

Now this provision and the provision for partition are subject to the objection that they do not specify the method of partition, whether it is to be *per capita or per stirpes*, or a medium as adopted by the Nanjinad Vellalas. A provision ought to be made specifying the method of partition, the shares to which each member would be entitled and so on.

In regard to clauses 22 and 23, the objection has already been stated that the Bill ignores the provisions of the Nayar Regulation. As the learned mover has agreed to provision being made in the Bill itself for saving the provisions in the Nayar Regulation, I do not wish to labour the point. In regard to partition, it seems to me that the provision is absolutely infructuous and useless, because, in my experience, it is impossible to effect a partition in a *Marumakkathayam tarwad* with the consent of the *karanavan* unless perhaps physical force is used. Therefore, though it may be inoccuous, it is certainly ineffectual. If my Namputiri friends mean business, it should be made practicable.

Now, Sir, I have taken such an unusually long time in discussing the principle of this Bill, because I feel that a Bill which relates to a community which has not the advantage of being well represented in this Council and which does not contain men who are literate in English or well versed in legal or legislative matters requires that the members of this Council should bestow and show that they have bestowed the very best consideration that they can on it and should not allow it to pass through the Council without proper scrutiny in every detail. I feel so, especially in view of the fact that the opposite view, and I believe that there is one, is not represented in this Council. With these words, I have very great pleasure in supporting the general principle, the very general principle, of this Bill.

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The Council rose for lunch at 1-55 P. M. and re-assembled at 3 P. M.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Sir, I have also very great pleasure to accept the general principle of the Bill introduced by Mr. Tuppan Namburipad. As to the need of a law for the Namputiri community, I hope all of us are agreed. I perfectly agree with the observation made by Mr. Changanachery Paramesvaran Pillai that representatives of the members who hold views opposite to those that are expressly stated in the Bill are not in this Council. On enquiry yesterday I was told that all the three Namputiri members that are here are holding the same views with regard to the Bill. I asked Mr. Tuppan Namputiri himself whether there were any in his community holding any opposite views to the provisions that are contained in his Bill. He told me that there are very few and that they are only a narrow minority. I submit, Sir, that, even if it is only a narrow minority of the community who hold opposite views, that narrow minority should necessarily be represented here, because that one circumstance alone will launch us in the very same difficulties which we felt with regard to the Ezhava Regulation when we were at it. Now, all of us are aware of the real difficulties which we encountered in getting through that Bill on account of the fight between the Misradaya section of the community and the opposite section. Of course, a perusal of the pages of the Gazette that are recently published will show what the minority alleged by one section of the Ezhava community meant. A careful reading of the Chapter in this Bill relating to *tarwad* and its management will show that a *karanavan* of a Namputiri *tarwad* is almost entirely handicapped in carrying on the management of his *tarwad*. Sir, there are provisions, very many provisions in this chapter, a study of which will prove that, though a *karanavan* is empowered to realise the income due to his *tarwad*, he can meet the ordinary expenses only if the several items of expenses are agreed to by the majority of the male members of the *tarwad*. That is a circumstance which a *karanavan* of a Namputiri *tarwad* would certainly object to. Then again, there are other provisions dealing with the power of alienation by *karanavan*. Those provisions are embodied in clauses 7, 8 and 9. These sections, if carefully read through, require very serious reconsideration and redrafting. There, the powers that are naturally vested in a *karanavan* are also restricted. Another clause in the Bill will show that the birth-right of a member of a Namputiri *tarwad* is also taken away from him. I refer to clause 13 which reads thus:—

> Every major male member and, in the absence of such male member, every major female member till a minor male member attains majority, has a right to be the Karanavan of the tarwad in the order of seniority on the death, retirement, renunciation or removal of the Karanavan. But a person who on account of bodily or mental infirmity is incapable of managing the tarwad or a discharged insolvent shall not be so entitled.

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This clause would mean that if a junior member of a Namputiri *tarwad* by some chance or other happens to come into debts and puts in an insolvency petition in some court, that very fact goes to take away his birth-right to become the *karanavan* of that *tarwad*. So, Sir, on a careful reading of this chapter, it will be evident that the powers of a *karanavan* of a Namputiri *tarwad* are very much restricted, so much so that we on this side of the House would naturally expect that a *karanavan* or somebody to represent the views of a *karanavan* should be in this Council.

MR. G. SANKARAN POTI (*Co-opted*): Does he know that the mover of the Bill himself is a *karanavan*?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Well, you may take him to be a *karanavan*, but with regard to this Bill his views are views of a young *karanavan*, so far as I can see.

MR. C. N. TUPPAN NAMPUTIRI (*Jenmies*): ഞാനും ഒരു കാരണവനാണെന്നുള്ള സംഗതി മെമ്പർക്കറിയാമോ?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): I do not consider Mr. Tuppan Namputiri as being a *karanavan* holding views that are expected to be expressed by a *karanavan* ordinarily.

MR. G. SANKARAN POTI (*Co-opted*): Am I to understand from the member that there were *karanavan* members in this Council when the Nayar Regulation was introduced to represent the views of the *karanavan*?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Yes, there were many. My point is, that when the Ezhava Regulation was considered, two members were co-opted, one representing the *Makkathayam* section and the other *Misradayam* section. In that way, here also with regard to this Bill persons representing the different sections of the community, I mean, having different views, could have been co-opted.

MR. N. KUMARAN (*Nominated*): May I remind Mr. C. P. Kochukunju Pillai that *Makkathayam* Ezhavas never got into the Council when the Ezhava Regulation was considered?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): I mean only that section of the community which was against the *Misradaya* section of the community. So, that is the first point I bring to the notice of the Council. This Bill has to be very carefully considered in the light of the observations that have already been made by the members who have already spoken. I was going through the several clauses of the Bill and I found that almost all clauses would require reconsideration the details of which I do not want to speak about at present, because we have got a subsequent stage at which we have to consider the Bill, in detail. There are certain provisions in this Bill which are against the provisions that are found in the Regulation that is now under consideration in Cochin and there are certain provisions in the Cochin Regulation which are not found in this Bill. I do not want to take the time of the Council by dealing with those

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things, beacuse almost all the Sections have been dealt with by the previous speakers in detail. And I also find it unnecessary to go through the Bill clause by clause. So, all that I want to express now is that I accept the principle of the Bill. The main idea entertained by Mr. Tuppan Namputiri in bringing forward this Bill with regard to Namputiri *tarwads* and his efforts deserve to be appreciated. I am glad that he has brought forward this Bill which has to be considered in the light of the observations that are now made and will in future be made by the members of this Council.

MR. P. K. NARAYANA PILLAI (*Ambalapuzah*): Sir, this is an attempt on the part of our Namputiri brethren to set their houses in order. As such, it appears quite a praise-worthy move on their part. The learned mover of the Bill, Mr. Tuppan Namputiri, proposes to achieve the end in view mainly by two processes; first, by stimulating a desire for marriage on the part of the males within their own community and secondly, by regulating the management of their *tarwads*. With respect to the first branch of the contemplated change, it may be at once said that the Namputiri male portion at present marry not only in the Namputiri community but also in other communities, for example, the communities of Koiltampurans, Tampurans or Rajas, the Nayar community and those intermediate communities like Variars and others; so much so the matrimonial activity on the part of male Namputiri seems to spread over a number of communities while a similar license is not available for the female Namputiris (*Laughter*). That is a point in Mr. Tuppan Namputiri's manoeuvre. Mr. Tuppan Namputiri hopes as far as possible to shepherd all the male members of his own community and to get them married within the same pale. For that he has devised certain provisions here, such as the differential treatment of male Namputiris who marry in their own community and who marry out of their community in the matter of maintenance, in the matter of the claim for partition, etc. In some of these provisions, a stimulus is afforded for the purpose of getting Namputiri males to marry in their own communities. That is what I see from the provisions of this Bill. This is a desirable device and nobody need quarrel with it; but unfortunately a practice has been going on all along under which these Namputiri gentlemen have married in a number of other communities as I submitted a little while ago. The question arises now whether all on a sudden the existing state of affairs and the past history of such matrimonial alliances can be entirely ignored by this Council. I, for one, Sir, would certainly oppose any such idea as Mr. Tuppan Namputiri would put forward that all such past alliances may be ignored, whereby his own community may be made to thrive. I have not been tired of repeating the proposition in this House that those who are responsible for bringing in additional mouths in this world should also undertake the responsibility of feeding those mouths. That is only a very legitimate and fair proposition about which nobody can quarrel. In fact, the tendency of legislation everywhere is in that direction. Even in the case of illegitimate children, the colonial legislatures are becoming rather stringent in getting hold of the putative

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father to see that the illegitimate children do not suffer. That being the tendency of legislatures elsewhere, and since it is in accordance with the equitable principle of fairness, to say that Namputiri gentlemen may be allowed to shirk their responsibilities after contracting alliance with females in other communities is a proposition with which I cannot reconcile myself. I recollect a passage in Lord Byron's poems where he says as follows:—

"None can say that it is not good advice
The only mischief is that it comes too late,
Of all experience 'tis the usual price
A sort of income-tax laid on by fate."

That, in fact, is the present situation in which the Namputiri gentlemen find themselves. They have contracted certain marriages. Whether it was as a result of particular circumstances, we need not stop to scan. Anyhow, the marriages are there and the chances are that such marriages in spite of the legislative discouragement attempted by Mr. Tuppan Namputiri would still go on. Such being the case, to say that such alliances should be discouraged by this sort of legislative enactment is a thing which I cannot appreciate. It is an idea that should be evolved from within the community itself. In fact, this question of marriage is a very serious question. If left to me, I would certainly pass some sort of enactment whereby Indian students going to England are not permitted to marry in England. We desire very much to see our young men come back and marry in India, but unfortunately they disobey. There is no means to control them if they choose to marry there. Similarly, some Namputiri gentlemen have a fancy for girls in our community and they marry them. According to Mr. Tuppan Namputiri and my friend Mr. Kallur Narayana Pillai, it is because of the existence of certain *sastric* principles. But the Hindu law must have had its origin in one common source though according to Sankara Smriti, as Mr. Kallur Narayana Pillai pointed out, there is the dictum that only one should marry in the same family (ഏക ഏവാഹംഗതച്ചൽ). The practice in some of the respectable Namputiri families is known to me wherein two or three juniors or all of them marry in their own community. Therefore, it is not quite correct to say that there is a sastric obstacle in the way of juniors marrying in their own communities. So it is left to the Namputiri gentlemen to contract marriages in their own communities. But after having contracted marriages in other communities, after having incurred responsibilities there, to say that we are rather shy of going on with this sort of music—that I beg to submit cannot be listened to. So, all the provisions in the Bill whereby Mr. Tuppan Namputiri seeks to curtail the rights of individuals of other communities in the matter of the demand upon their husbands and fathers are viewed with considerable disfavour by this House. That is my submission with respect to the question of the first change which Mr. Tuppan Namputiri wants to introduce. That is one of the main principles.

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The other main principle is with respect to the management of *tarwads*. There, I have no hesitation in agreeing with the views of Mr. Tuppan Namputiri. I am decidedly of opinion that some sort of regulation of the management of *tarwad* is necessary to prevent the further decline and ruin of these Namputiri families. But whether adequately efficient safeguard can be provided is a different question. What Mr. Tuppan Namputiri proposes to do is this. In the matter of alienation of *tarwad* property and in the matter of incurring debts and other things, the junior members of the *tarwad* may be associated, so that the *karanavan* may not play fast and loose with the *tarwad*. There, one fact has to be pointed out and that is this ; it is very unfortunate that the junior members of a Namputiri tarwad have not had anything like appreciable education to look after their own concern. Even in very decent Namputiri *tarwads*, the management is generally run by a paid agent. The senior member does not bestir himself very much about the management of the *tarwad*. The greater the status of the *tarwad*, the greater is the aloofness of the *karanavan* about the question of management. In great *Swaroopams* like Edapalli and Vanjipuzha and several families of high status, the management is invariably conducted by a paid agent. That is the position of the senior member. With respect to the junior members, their knowledge of the management and probably of things connected with the management is after all quite negligible. Naturally, the question may arise whether by the conjuction of the junior member with the senior member in the matter of alienation of *tarwad* properties and in the matter of incurring debts, the position would be improved. *Prima facie*, it will not improve, for a number of ignorant persons joined together cannot make the position better. Yet, there would be a check to that extent and the junction of the junior members may prove an obtstacle in the matter of frequent alienation of *tarwad* properties. To that extent at least, it may be taken that the provision relating to the management of *tarwad* contained in the Bill is welcome. These are the two principles underlying the Bill.

Then if you go into the Bill clause by clause, very few clauses would escape criticism. It is something like the prayer of a Spanish clergyman who, as reported by Montaigne in his essays, used to sit up and read the alphabet four or five times and then stand up and pray to God " now I have repeated the alphabet ; I do not know what will be welcome to you. Out of these you may select such letters and form such words as would be pleasing to you ". (*Laughter*). Mr. Tuppan Namputiri seems to have adopted the model of that clergyman in the matter of this Bill. He has put forward some provisions and indicated certain desires. But the provisions when, analytically examined, can only be construed as the outward manifestation of his desire, and would not stand scrutiny at the hands of a lawyer as we have been just now listening to Mr. Changanachery Paramesvaran Pillai.

MR. G. SANKARAN POTI (*Co-opted*) : There are no great lawyers in the community.

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I am not blaming your community for not having lawyers. We know exactly what you are aiming at and however imperfectly and inaccurately expressed be the provisions of the Bill, I take it, Sir, that it is the duty of this Council, especially the non-official section of it, to come to the rescue of the community and to do what it can do in all fairness. So, I am not waiting to defend any provision and, in fact, I would even point out that some of the provisions are not quite acceptable. Some provisions are superfluous for the existing law is clear in regard to those provisions. Our friend need not put them forward by a legislative enactment. That is one of the aspects that we have before us. Now, Sir, as I said, the desire on the part of the community is quite clear. That is enough for the Council to take the question and to do their best to advance the cause of the community. Therefore, with the underlying principle, in regard to the management of the *tarwad*, I am prefectly at one with the learned mover. That question deserves consideration on the part of this Council. And it deserves to be submitted to a Select Committee for its formal shaping and correct codification. With respect to clause 22, some observations have already been made by Mr. Changanachery Paramesvaran Pillai. That clause runs thus :—

> On the death of a Namputiri male leaving him surviving widows who are members of the family, undivided sons and unmarried daughters, they shall take the whole of the self-acquired and separate properties left by him at his death in equal shares. In the absence of the widow, the undivided sons and the unmarried daughters shall take the whole, and, in the absence of the widow and the undivided sons, the unmarried daughters shall take the whole.

That is a provision with reference to intestate succession. With respect to that the Nayar Regulation has already enacted a provision. The other communities have not come in for any Regulation. The Kshatriyas, the Variars and the Tirumulpads have not agitated.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): They are agitating.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Probably, the agitation is coming on. With respect to the Nayar community, they have already secured a law. As I said a little while ago, paternity carries with it some responsibility. And the fact that the father happens to be a Namputiri is nothing for him to claim exemption from the ordinary obligation attached to paternity. That has already been provided for after a heated controversy in this House, and that, so recently. And therefore it is certainly premature for Mr. Tuppan Namputiri to reconsider it. Only let Mr. Tuppan Namputiri's community take care to see that the members of other communities with whom they have marital relations do not press for the same law. Hence, that provision as was already pointed out is repugnant to the existing provisions of law. Then in the matter of laying down seniority of females, Mr. Tuppan Namputiri has introduced a novel principle. The explanation to clause 13 runs as follows :—

> *Explanation*—The seniority of females who have become members of the tarwad by marriage shall be determined with reference to the date of the marriage.

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I beg to submit that it is somewhat novel. Seniority for the purpose of succeeding to *karanavanship* goes by age and even with respect to Mitakshara families the Travancore High Court has held that the senior widow would be entitled to the management of the family and not the junior widow in spite of the fact that the junior widow may be the widow of last male holder. When that is the sort of importance attached to seniority in Travancore, that Mr. Tuppan Namputiri unsupported by any authority should come forward to give preference to the date of marriage and not to the seniority of age seems to be somewhat surprising. It has been conceded by Mr. Tuppan Namputiri himself that all the members of a Namputiri *tarwad* are entitled to the properties of the *tarwad*.

Then when it comes to the question of maintenance, Mr. Tuppan Namputiri would give effect to what he considers ought to be the proper kind of marriage. That is to say, junior members who are not married from the Namputiri community will have no claim for separate maintenance. That is a very risky provision. Suppose a junior Namputiri has married in a Raja family or a Tampuran family. He will be well off there and he will not molest other members. But when he has married in a poor family, he is entitled to claim a share from his *tarwad*. To say that he has no share in the family income because he has married in another family is not an acceptable proposition. If he were to get any sort of maintenance in his *tarwad*, he certainly has to be nailed to his *tarwad*. If he leaves his *tarwad*, it is dangerous to him. If he goes and performs *santi* somewhere he may eke out his livelihood. But then, Mr. Tuppan Namputiri will intervene and say "I shall not give you anything." That is discouraging private enterprise. By his own work or by matrimonial alliance, he may better his prospects elsewhere. But Mr. Tuppan Namputiri would say that he should not do that. Mr. Tuppan Namputiri is forcing it upon all junior members to marry in their own community. And as somebody pointed out it is creating trouble for themselves. A junior member can marry a number of girls if he chooses. There is no monogamous principle in the community and if he goes on multiplying, a Namputiri *tarwad* would be hit hard. That aspect of the matter is not taken into account by the learned mover. That also, I would beg to submit is not quite a welcome provision.

Again, in the matter of management and alienation of *tarwad* property, at least in the matter of renewal of *kanam* deeds, the *karanavan* should be given power. Otherwise, the concurrence of all junior members would be needed for the renewal of a *kanam* deed. It would require considerable registration charges. Probably, the Government would be benefited. A resident registration officer will be necessary and he will always have to be in the Namputiri family. Usually, a *kanam* deed is for twelve years. What attraction Mr. Tuppan Namputiri has for putting it at six years is not quite clear. And then there is the provision with respect to accounts. That provision was found to be unworkable as has been pointed out by my friend Mr. Changanachery Parameswaran Pillai. The Bill also directs further that copies of accounts should be supplied to the junior members. Who is to supply the copying fee is not stated; and I do not know what is the use of these copies to *antarjanams* who

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probably do not know how to read and write. And then what is the reason that is given in the Bill for supplying these copies? No reason is given. Perhaps it is to ensure that the *karanavan* does not mismange the *tarwad*. If the *karanavan* who does it is such a rogue as Mr. Tuppan Namputiri is prepared to suggest, then it is equally possible for him to so frame the accounts as to create damaging evidence against the whole *tarwad*. Whether it is for Mr. Tuppan Namputiri to enact such a system is a matter which has to be considered.

Then with respect to the removal of *karanavans*, an application is sufficient. In this matter, why a preferential treatment should be claimed by the Namputiri community is not quite clear. If you want to remove a *karanavan*, institution fee will have to be paid and then the *karanavan* will have to be removed by the court. Here Mr. Tuppan Namputiri says that three-fourths of the number of people should concur and a *grahasta* should propose it; then the *karanavan* would be removed. I do not know how this escaped the notice of Government since it affects the revenues of the State. I do not know how the Bill was allowed to come into the Council. There also the principle is not correct.

Then with respect to partition, the provision is very unsatisfactory. First of all, the man who is to move for partition is a *grahasta*. If Mr. Tuppan Namputiri's conception of a man who does not marry in his own community has been what it ought to be, he would not have brought forward this provision. It would have been much better to allow a person who does not marry in his own community to go adrift. He says let the obnoxious man get away. Instead of that a preference is given to the *grahasta* to migrate.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): May I ask whether other junior members who are not *grahastas* are entitled to get a share?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): They are not. That does not appear from the provisions of the Bill.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): At the time of partition, can they get a share?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): If there is a thorough partition, it may be so. But that is not quite clear from the provisions of the Bill. In fact, it is very difficult to find out a particular clause which is entirely free from blemish. His desire to have a legislation is quite clear. Here the Bill has not been properly drafted. Perhaps, as some other members said, it is not useful to pursue this sort of discussion and criticise the Bill as if this is the final stage. All that I want to submit is that there is an earnest desire on the part of the community and I appreciate that desire. No doubt, as I have pointed out, the mover of the Bill as well as the co-opted members seem to entertain similar views in the matter of this legislation. There are other interests in the community and probably there are persons holding diametrically opposite

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views. As I submitted, there are great families like Edapalli and Vanjipuzha *swarupams*. Whether they are persons sharing the views expressed by the learned mover of the Bill is not known. I know the seniormost members of those families have contracted marriages in other communities. How the members of such high families would view this Bill remains to be seen. It is really unfortunate that no such member is here to press a divergent view with respect to the provisions of this Bill. All the same, what appears to be equitable and fair may be done by the Select Committee and I request therefore that the principle of the Bill may be accepted. I may also be allowed to point out that in the sister State of Cochin a similar Bill is in the second reading stage and it is only fair that in Travancore a similar Bill is undertaken.

(The President left the Hall at 3-40 P.M. and the Deputy President took the chair.)

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, the Namputiri Brahmin community is almost a unique feature of the Kerala country. There are Brahmins throughout India; but a Brahmin community with the distinctive traits of the Namputiris will not be found anywhere else in India. The history and traditions of the community place it on an eminence that is not approached by any other community. It is highly desirable that a community with such traditions should be enabled to maintain its old prestige and move with the current of the times. It is therefore highly commendable that certain enterprising and patriotic members of the community imbued with a desire to better the position of the community have come forward in order to remove certain glaring defects in their social structure. Outsiders like myself have very little to say in such matters. All that we as members of this Council ought to do is to enable the progressive members to achieve whatever they consider to be in the best interests of the community without infringing the rights of other communities. To that extent, in so far as the present Bill may not encroach upon vested rights or equitable principles, this House will have a voice in the matter. In regard to other matters, what we have to do is to give effect to what a dominant section of this community consider to be in their best interests. It is generally admitted that this community is now declining in several respects. As to what the reasons may be, there may be differences of opinion. Whether this state of things may be remedied by what Mr. Narayana Pillai says stimulating the desire for marriage within the community or by any other process, nobody can prophesy with any degree of certainty.

In viewing the question as an outsider with no kind of special knowledge or special facility to form an opinion, I have come to certain conclusions which have forced themselves upon me in these matters. Originally, the lawgivers of the community, in their wisdom, must have taken steps to perpetuate the greatness of the community by ensuring that there shall be as few Namputiris as possible and that the necessity to partition the family property should not arise. They thus

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enacted that only one member of the community should marry within the community and that the issue of that marriage alone should have any right of maintenance from the funds of the family. I think the one result which the framers of the constitution did not foresee was that it has taken away from the members all stimulus for enterprise and therefore the community has become rather flabby. In this age, when owing to keen competition, every member of every community is straining every nerve to maintain himself in the world, the Namputiri community is always born with the idea that there is no necessity for them to exert themselves in the least. They think it *infra dig* for them to devote themselves to any kind of work. They have always been landholders and have been subsisting on the fruits of the labour of other people, no doubt, on lands belonging to them. But the net result, I think, has been very unfortunate. Nobody in this struggling age can thus survive. I do not know whether the particular provisions of the Bill will have any effect stimulating the desire for marriage within the community. I do not propose to go into the details of the measure, but I am particularly desirous that the institution known as *smartavicharam* should not be allowed to continue. It is a very barbarous and cruel custom. I remember two or three of these were conducted at Kottayam and I know how sadly the whole thing is mismanaged. If the community puts a stop to it, it will be a great boon. Without making any further remarks, I merely express my cordial approval of the effort of Mr. Tuppan Namputiri for ameliorating the condition of his community and I have great pleasure in giving my assent to the general principles embodied in the Bill.

MR. M. N. PILLAI (*Trivandrum*): Sir, I heartily sympathise with the great Namputiri community in their desire for legislative reform. The Namputiri community played a great part in the past in culture and refinement. No Keraliyan can sit unconcerned at the gradual disappearance of this community. And therefore any legislation that would prevent this danger will evoke the heartfelt sympathy of other communities. But to my mind the present Bill of my friend Mr. Tuppan Namputiri is misconceived in that it has not touched the disease which unfortunately eats into the vitals of that ancient community. My friend has left the whole question of marriage which is surely the means of the perpetuation of the family entirely out of consideration. It is the problem that should have been grappled with and it is that which my friend has deliberately ignored. A Namputiri Bill without the consideration of that question is like a marriage where the *tali* tying was forgotten. The Bill, as it is, does not serve any great useful purpose.

It has not been widely understood, in any case, I have not understood, that the management of Namputiri tarwad has been in such a great confusion as to require a Bill of this nature. The mismanagement of a Namputiri *Illom* is not surely an ordinary feature. Of course, the impartible nature of the Namputiri *tarwad* and the consequent restrictions in the free enjoyment of *tarwad*

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properties by the junior members, the vestiges of an old-world policy, call for timely and judicious reform. But my friend Mr. Tuppan Namputiri has not given them their due importance and given them any proper and satisfactory consideration.

The Bill concerns itself chiefly with three aspects:—

(1) The right and liabilities of the *karanavan* as compared to the rights of the junior members.

(2) Inheritance and intestate succession.

(3) The thin end of a partition wedge.

We are not told what a Namputiri *tarwad* is. The definition given in the Bill is that it is a joint family of persons who are members of it. It does not enlighten any one any way. I find inconsistent principles underlying the provisions of the Bill. While the proprietary rights of a junior member to the properties of the *tarwad* is recognised, separate maintenance is not allowed to all the members of the *tarwad*. A *grahasta* alone in a narrow and technical sense, is allowed separate maintenance and it is only a person who is entitled to get separate maintenance that can get properties in lieu of maintenance. This distinction is wrong on principle and goes against the very principle of the mover, namely, to give more freedom of enjoyment of *tarwad* properties by junior members. My friend Mr. Tuppan Namputiri deserves congratulation for his attempt at reducing the *karanavan* to the position of a democratic association liable to be removed from office by the mere strength of a majority of votes against him. How far this accords with the principles and the prevailing sentiments of the community seems to have escaped his attention. Mr. Tuppan Namputiri has attempted to destroy a birth-right by a majority of adverse votes. It is difficult to understand the reason for such an extraordinary provision when there is already a provision for the removal of a *karanavan* from his *sthanam* on the ground of incapacity, misconduct or mismanagement of the *tarwad*. In consideration of the absolutely unnecessary nature of this provision and the possible confusion this queer provision will bring into the *tarwad*, I must unhesitatingly oppose the principle underlying it.

As regards inheritance and intestate succession, the first thing that strikes one is the invidious distinction made between a wife who is a member of the family and other legal wife. It is indeed a strange enactment which makes the distinction with regard to the self-acquisitions or separate property. It indicates selfishness. The wife who is a member of the family becomes entitled to a share in the family property. This is an advantage which her position gives her. To extend that to self-acquired or separate properties is unjust. All ideas of justice, equity and good conscience require that all legal wives must be deemed to be equal in respect of the self-acquired or separate properties of the husband. I must therefore strongly oppose the principle underlying this provision. Another provision which looks strange is the provision which excludes even an unmarried daughter from among the heirs of a Namputiri woman while she is an heir to a Namputiri male. This is unheard of. If partition is wanted by the community, why should it be

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confined to a *grahasta*. It is inequitable to base a right to get a share on partition on the person being a *grahasta*. The partition being allowed only when a majority of adult members agree, why should not a married Namputiri who may not be a *grahasta* in the restricted and narrow sense, ask for a share? With these observations, I resume my seat.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Sir, I have great pleasure in supporting the broad principles of the Bill and to congratulate the mover for his good intentions which actuated him to introduce this Bill. But I am very doubtful whether this Bill if passed through this Council will in any way advance the interests of the community for which it is intended. One of the main objects of this Bill, as I am given to understand, is to remove the impediments upon the growth of the family life of the junior members of the Namputiri family. As it is, I am afraid that these impediments are only being legalised, because the Bill says that only a *grahasta*, that is to say, a man who marries, in the technical sense of the term, is allowed to have any right of maintenance in the *tarwad* property. So long as this clause is in the Bill, I believe the *karanavan* of the Namputiri *tarwad* and some of the married members of that *tarwad* will try their level best to see that junior members do not marry women of their community, because by that process the *karanavan* will be terribly afraid of a sort of disintegration in the family. This disintegration is looked upon with aversion as can be seen from the partition clause, I mean clause 27. Therefore, so long as there is this aversion for partition in the mind of the *karanavan*, I am sure the marriage which is intended by the mover of the Bill will not take place. On the other hand, the process of legalising or compelling a member to marry from his own caste seems to be rather curious. We have had legislations of this kind here and we have never made such a provision. To compel a man to marry—

MR. M. SIVATANU PILLAI (*Tovala*): May I know whether he advocates polygamy or monogamy among the Namputiri community?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I am coming to that. If my friend will please wait, I will answer him.

MR. A. K. PILLAI (*Karunagapalli*): May I know whether in the Nayar Regulation there is a provision which allows a Nayar male member to marry an Ezhava female?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Is there any particular provision in the Regulation that a Nayar male should marry only a Nayar female?

MR. A. K. PILLAI (*Karunagapalli*): Does it disinherit —

MR. K. SIVARAMA PANIKKAR (*Shertallai*): It is not a question of inheritance. Does it say that a Nayar can marry only a Nayar woman? I don't think so. But here it says that a Namputiri should marry only a Namputiri woman. Of couse, it is with the intention of a man marrying in his own caste. But I am afraid the purpose would be defeated

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for the reason that I showed above. Then, the question arises why these Namputiri Brahmins do not marry women from their own caste? Because it was their custom that the junior members had no right for maintenance. If they married women of their own caste, they will not have the means to support them. By all means, give them by this Bill the means to support the family, and then, I am sure every junior member will have the natural inclination to go on his own accord to choose a wife of his own caste. That is all what is wanted. If only the junior members are allowed the means to maintain themselves and their wives and children, naturally, they would marry from their own caste. As it is, I am afraid the purpose of the Bill will be defeated.

In clause 2, sub-clause (2), *tarwad* is defined as follows:—

> Tarwad means and includes all the members of a joint family with community of property.

It is all good. But, with respect to the junior members or the *non-grahastas* who have married, probably, women outside their fold, they do not get any right whatsoever. What their interest in the family property is I do not know. They have only, probably, the right for ordinary expenses such as food and clothing and medical aid and nothing more. I do not know what they will do to support their wives and children in case they had married outside their caste. Will they beg or steal? I do not think that is in any way a commendable idea, especially in the case of such a generous community, to ask some of the junior members of their own community to beg or to steal. After all, how does this advance the interest of the community?

Then let us take the case of the out-caste. We saw from what Mr. Changanachery Paramesvaran Pillai read to us that the *smarta-vicharam* is after all an uncouth system of trial which does not recognise either equity, law or justice. Therefore, at this time we have to ignore it. We found that it was only a question of money. If you are able to raise Rs. 2,000, you can very easily make a man an out-caste, and in a *tarwad* which can very easily raise Rs. 20,000 or Rs. 40,000—such *tarwads* are not uncommon among the Namputiris—the *karanavan* will try his level best to see that by paying a few thousands of rupees most of the *anandaravans* are made out-castes. Then again when a woman is accused of adultery or of having had illegal connection, she is simply asked to enumerate the list of persons with whom she had connections and at once all those persons are out-casted. From the moment they are out-casted, they cease to have any right over the *tarwad* property. Such a practice does damage not only to members of that family but to members of other families as well, not to speak of members of other communities. The present provision in the Bill therefore is a very dangerous provision and I do not know how this Council is asked to recognise such a practice on the simple ground that it exists at the present day.

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May I know from the member whether a Nayar may be out-casted on any ground?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I believe a Nayar can be out-casted by *smarthavicharam*, but Nayars do not recognise such out-casting.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am not referring to the *smarthavicharam*. Is there any *ground* on which a Nayar may be out-casted?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Conversion.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is there any other ground?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I am not aware of any other ground. But in the case of the Nayars, there is opportunity for a fair trial and the law courts have to consider whether the out-casting is legal or equitable. But here the out-caste is not given the chance to disprove the allegations made against him.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is it the *method* of out-casting or the *principle* that the member objects to?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I object only to the method, *smarthavicharam*. That should never find a place in this Bill and this Council should never recognise it.

MR. K. K. THOMAS (*Kottayam*): Does a Nayar lose his caste as a result of his interdining with a member of any other caste or marrying from any other caste?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): No, no; he has got absolute independence in such matters. Thanks to the generosity of the ancient leaders of our community, we have not been put under such thraldom.

Then, with regard to the *karanavan*, clause 16 definitely says that if three-fourths of the members of a joint family join together, the *karanavan* could be ousted, regardless of the way in which he has been managing the *tarwad*. Even if the *karanavan* happens to have managed the property very, very satisfactorily, he is liable to be ousted if three-fourths of the members of the family join together. Imagine the condition of a *karanavan* of a Namputiri family bereft of his children and wife. Imagine also that he has got below him a junior Namputiri Brahmin with a wife and a major son. If these three people, the junior member, his wife and son, join together and think of ousting the *karanavan*, although he might have been managing the *tarwad* property very satisfactorily, the *karanavan* is at once liable to be ousted. The mover of the Bill evidently presupposes in this clause only the genuineness of the application made by the junior members. Then again, clause 15 says:

> Every member of a tarwad has the right to seek the removal of a Karanavan by a decree of court for incapacity, mis-conduct or mis-management of the tarwad.

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Therefore, in the case of mis-conduct or mis-management, *every* member of the *tarwad* has got the right to move the court for ousting the *karanavan*. Therefore this provision is intended merely to satisfy the whim of the majority of the junior members of the *tarwad*. It is only left to the whim of three-fourths of the members of the tarwad to join and remove the *karanavan* from his office. I am sure this will frequently happen in Namputiri *tarwads* where the numbers are usually very few.

Then, with regard to partition, it seems from the provision in this Bill that it does not intend to have any partition at all. Because, partition has been made as difficult as possible. I will never stoop to say that since Mr. Tuppan Namputiri, the mover of the Bill, happens to be a *karanavan* he has made it so difficult. I will never stoop to say that. Anyway, the fact remains that under the provisions in the Bill it is only with an extreme amount of difficulty that partition could be effected. Besides, it is not clear from the provision whether a *non-grahasta* who has married from off his fold has got the right to partition when all the other members are getting their due shares. If for the simple reason that, fortunately or unfortunately, they happened to get married from another community, they are not to be allowed any rights to the *tarwad* property, then that is really very unjust and illegal.

The Bill, as it is, has got very many clauses which require a thorough change. Therefore, with these objections that I have already stated and reserving the other objections that I may raise at a later stage, I support the broad principles underlying the Bill.

MR. M. SIVATANU PILLAI (*Tovala*): Let me remind him of my question. May I know from him whether he would advocate polygamy for this community?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): As it is, there is nothing to say against polygamy.

MR. M. SIVATANU PILLAI (*Tovala*): I want the member's opinion on the matter. If he is not willing to disclose it, I do not press.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I am now only at the broad principles underlying the Bill. I will give out my opinion at a later stage when the several provisions in the Bill are discussed in detail. As it is, the Bill does not propose to prevent polygamy.

MR. N. KUMARAN (*Nominated*): I have very great pleasure in supporting the principle of the Bill. It seems to me, Sir, that it is a privilege to be here to legislate for the Namputiri Brahmins. As has been observed by Mr. Changanachery Parameswaran Pillai, the Brahmins, more especially the Namputiri Brahmins of Malabar, have been legislating for all classes of people among the Hindus in Kerala. Therefore, I feel it a matter for particular gratification that the time has come for the members of the other sections of the Hindu communities

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also to sit and legislate for this community which occupies practically the topmost rung of the caste system among the Hindus. It could be seen by all those persons who have observant eyes that there was something in the community which showed that all *is* not as it *was* in the community so far as their communal matters are concerned. Some twenty years ago, a society was formed by the Malayala Brahmins of Cochin, of Malabar as well as of Travancore. They organised a society called the Yogakshemasabha and it was very interesting to observe how they developed their theories about social organisation and the ideas that they entertained with respect to the manner in which they could ameliorate their condition and advance in several directions so far as material and social well-being were concerned. It was thought that the system of *Vijatiyavivaham*, that is, marrying from other communities, enjoined by the *Sankarasmriti* was not advantageous to the community. It was also feared I myself entertained the fear till Mr. Changanachery Paramesvaran Pillai gave us the figures to show that the fact was otherwise that the community was dwindling in numbers. It was thought that, until and unless all the younger members of the community also married from their own caste, the community was sure to dwindle in point of numbers. Such a fear was entertained in various quarters. Probably, the reason why a measure of this kind has been introduced here is to remove this barrier which prevents the younger members of the community from marrying from their own community. The chief fact which prevented the junior members of the community from marrying from among themselves was that they could not ask for and obtain separate maintenance from the *tarwad*. We will find that clauses 18 and 19 are the most important provisions in the Bill. My own idea is that Mr. Tuppan Namputiripad, the member who introduced the Bill, would be quite satisfied with the passing of these two sections. The most important point that they want to gain by the enactment of this legislation is that this *Vijatiyavivaham* must be done away with. I heard a good deal of criticism from several members of this House as to the motive which might have actuated the gentleman who introduced this measure in introducing this provision in the Bill. It was stated that this provision in the Bill was directly against certain provisions in the Nayar Regulation. I think the Namputiri community must be permitted to arrange their own house in their own way. If any provision in this Bill goes against any provision in the Nayar Regulation, I say, it is certainly very easy for us to make some other arrangement in this Bill itself which would remove this difficulty. The Nayar community was very anxious to get certain rights; they fought for that purpose and gained their object. They wanted that their women and children should be protected. Any encroachment upon that right would certainly be resented by that community; and I am sure this Council will not accept any provision which invades upon their rights. That is no reason why the Namputiri community should not attempt to have a provision in their own Bill which would induce the young

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men of their community to marry as far as possible from their own community. I therefore think that we need not waste so much of our breath on this aspect of the question as it is perfectly possible to introduce, at the Select Committee stage of the Bill, some provision which would leave the provision in the Nayar Regulation intact.

At this stage, I do not think it necessary to minutely go into every provision of this Bill. Unfortunately, the Bill does not seem to have been in the hands of a competent lawyer for its shaping. Probably, most of the provisions would have assumed a different shape if a lawyer had been at it. As has been observed by the previous speakers—

MR. K. MADHAVAN PILLAI (*Tivandrum* cum *Neduvangad*): In Cochin, the Legislative Council seems to have accepted the Bill.

MR. N. KUMARAN (*Nominated*): I do not know. That does not mean that we also should accept it. We should examine each provision of the Bill and accept those provisions which are acceptable to us and introduce amendments which we consider to be necessary.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): I was talking about the drafting of the Bill.

MR. N. KUMARAN (*Nominated*): I do not want to express any opinion on the drafting capacity of the mover of the Bill. At any rate, I do not approve of the manner in which various provisions are drafted in the Bill. For instance, in respect of the management of the Namputiri *tarwads*, we find a large number of provisions, and most of them are absolutely unnecessary. They are simply the principles of law which were established long time ago by the Travancore High Court and are here laid down as provisions to form part of this enactment. I think this is absolutely unnecessary. I believe this House has been going very minutely into the various provisions of the Bill and the defects pointed out require a careful examination by the Select Committee and whatever is left over can be corrected by this House at the second reading of the Bill. I believe, therefore, that a minute examination of the provisions of the Bill at this stage is quite unnecessary. I should congratulate Mr. Tuppan Namputiri on his boldness in introducing this measure. At any rate, whatever defects found in the Bill can be removed by the Select Committee and I should think that the discussion might now be narrowed down to the acceptance of the general principles of the Bill. With these few observations, I would support the principle of the Bill.

MR. M. SIVATANU PILLAI (*Tovala*): Sir, I confess freely that I do not know what sort of feeling I have in rising to speak. At any rate, I can assure the House that I do not have the same amount of pleasure as my friends on this side of the House expressed. But subsequently some members accepting the principle of the Bill as a whole vehemently protested against certain provisions of the Bill. For example, a little while ago my friend Mr. Sivarama Panikkar did not mince matters. However I speak on this occasion and leave the House to judge what kind of feeling I entertain.

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MR. K. SIVARAMA PANIKKAR (*Shertallai*): May I correct the member? I supported the broad principles involved in the bill and not all the provisions of the Bill.

MR. M. SIVATANU PILLAI (*Tovala*) : I am not contradicting his statement.

I concede my friend's position. I confess, Sir, that coming as I do from the southernmost part of the State, I had not very many occasions to come across any brethren of the Namputiri community. I have only information which I gathered from my friends on this side of the House and I freely confess that I do not feel any sense of shame in saying that I have very little knowledge of the Namputiri community as a whole. I do not know in detail to express any opinion on the custom prevailing among the Namputiri community as the previous speakers have been able to do.

If I remember correct, the criticisms offered on this side of the House on the Bill come under the following heads. (1) Superfluity, (2) Provision regarding marriage, (3) partition and (4) certain definitions etc. Coming to the first point, *i. e.*, the argument of superfluity, I fail to see, Sir, how superfluity comes in as a bar. Even if there is superfluity, I am sure the Law Member will tell us the necessity for it. In order to understand certain provisions of the Regulation, certainly, definition should be given. Under these circumstances, therefore, I believe it cannot be taken as superfluous. It has to be given so that there may not arise any trouble to get these terms defined through litigation in a court of law. So, according to me, the question of superfluity raised by some of the members on this side of the House does not seem to be tenable.

With respect to marriage, I have been attempting to elicit information from the previous speakers. One member said that the community is polygamous. Not one single member has uttered a syllable about the system of marriage to be provided for, whether polygamous or monogamous, though some speakers on this side of the House were once staunch and uncompromising supporters of monogamy. Provision for marriage also is included in this Bill. Here, in this community, polygamy is in vogue and why did the members refrain from making observations on it? To me, the explanation seems to be incredibly simple. If they once advocate polygamy certainly it may not be consistent with their policy. If they advocate monogamy it will effectively cut their arguments against intercaste marriages. If they insist upon monogamy, naturally, more girls will be left unmarried. So, in this Bill the system of marriage that has to be adopted by the community has got to be drafted in the light of this.

MR. K. SIVARAMA PANIKKAR (*Shertaliai*) : May I know if the member is aware that polygamy is recommended only in case when a Namputiri fails to get an issue by his first wife?

MR. M. SIVATANU PILLAI (*Tovala*): I believe it must be done only after experimenting. (*Laughter.*) Such a thing should not be

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allowed. I took this statement from Mr. Changanachery Paramesvaran Pillai that polygamy is common among the community.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): May I know whether the member attended to the speech of Mr. Kallur Narayana Pillai in which he stated that that was the understanding according to *Sankaras nrithi*.

MR. M. SIVATANU PILLAI (*Tovala*): I did attend. Mr. P. K. Narayana Pillai pointed out that the mover of the Bill has got an inordinate desire to see that the junior members of the community should in a way be compelled directly or indirectly to marry in their own community, because they were hitherto not allowed to marry. It is for that purpose he introduced in such a meandering way the restriction on the question of maintenance. My friend Mr. K. P. Nilakanta Pillai did not answer me straightforwardly when he was condemning the mover of the Bill. He said that my question will be answered when the time came at the time of considering the merits of the various provisions of the Bill.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I correct the member? It was not on account of sinister motives behind it, but I object to the provisions as they stand.

MR. M. SIVATANU PILLAI (*Tovala*): I admit that he attacked the question in a roundabout way. He was saying that no junior member should be discouraged from marrying from outside his community.

Much was sought to be made with regard to the representation of opposite views by way of co-option. Sir, opposite views there will be and I am not sure whether even now opposite views are not represented. Even supposing that the opposite views are not represented, I do not think that there is any necessity to have them represented, because, in the first place, most of the members on this side of the House are aware that there is no opposition to this Bill as it is. Secondly, there cannot be any opposition to the present Bill because as you will be aware it is only when a method of partition is provided for in the Bill, that there will be opposition since people do care very much for gain and loss. Even the Nanjinad Vellala representatives here accepted the system of monogamy when it was passed by this House though they were against it. But that does not in any way indicate either material loss or material gain. If the method of partition were provided for in the Bill, I can understand there being two parties, one representing the *karanavans* and the other representing the *anandiravans*. Such a contingency does not occur in this Bill and so there is no weight in the argument that opposite opinions have not been represented in this House.

Again, as regards the question of marriage, you might remember that I put a question to Mr. Changanachery Paramesvaran Pillai as well as to Mr. K. P. Nilakanta Pillai as to whether he will permit the restriction of marriage of the junior members of the Namputiri community only in their own community and not outside it, even from the time when the Bill takes the shape of Regulation comes into effect. I put the question direct to them. I do not think I got a definite answer, either yes or no, from

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them. Anyhow, the argument has been advanced by Mr. Changanachery Paramesvaran Pillai that the junior members who went outside the community for marriage were not given any provision whatsoever to maintain themselves, and that they were so many drones. Finally, he reiterated by saying that myself and himself were aware that they were practically a drag on their own family and not earning members. If that is so, such persons must be made to feel their own responsibilities. As my friend Mr. Panikkar said, when any such person is allowed certain facilities to earn his own livelihood, then he will try to marry in his own community and look after his wife and children by providing food and other things of comfort in life. Thus, there will be a growth of the sense of responsibility in the member. So, that is a very strong argument in favour of restricting the marriage of the junior member a junior members in their own community and not outside it. When a junior member takes a wife from his own community and begets children naturally he feels a sense of responsibility and he is quite at home also with the other members of his community. If anybody is prepared to challenge it, I have only to ask him to observe the nature of the man who will be more at ease with his family from his own community. The responsibility will be felt all the more when one's family consists of the members of one's own community. So, all these arguments taken together, will necessarily enable us not only to sympathise with the views of Mr. Tuppan Namputiri, but to encourage him in that point of view on the question of marriage.

With regard to partition, if the community is really serious about it, I must say that Mr. Tuppan Namputiri should try to place some more information regarding the demand of the community and its views before the question of partition is either discussed in this House or in the Select Committee.

As regards out-caste, Sir, I heard the process of excommunicating a person from his own community and in order to expedite that excommunication the definition of out-caste is given in the former portion of the Bill. When I heard these two things, as explained by my friend Mr. Tuppan Namputiri, I thought I was perfectly justified in associating a good deal of these people with the proverbs given to me on several occasions. In these days, when caste has to be got rid of why should there be a system to a lvocate out-casting? That appears to me to be available only to the fertile brain of Namputiris and not to the average and common persons. So the least said about that the better.

MR. K. K. THOMAS (*Kottayam*): May I know the proverbs which the member referred to?

MR. M. SIVATANU PILLAI (*Tovala*): They are a little euphemistic and I am not able to give them by way of recapitulation. But I understood that it was something amusing while at the period of recreation as well as relaxation. So far, in regard to the definition of out-caste and the process of excommunication. Sir, it is high time that we do

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away with it and at the same time give a helping hand to the Namputiris to see the world at large and to make them keep pace with it.

With these words, leaving the House to judge the nature of my feeling, I welcome the Bill.

MR. G. SANKARAN POTI (*Co-opted*): Sir, I rise to support the Bill introduced by Mr. Tuppan Namputiri. In doing so, I have very great pleasure to convey to the Government on behalf of my community their thanks for having nominated two members from the community in connection with the discussion of the Bill in this Council. I have also great pleasure in conveying their thanks to the various members who have spoken in very kind terms about the Bill, even though it is very imperfect, and also to the members who will, I am sure, speak in the future about the Bill in similar terms. As Mr. P. K. Narayana Pillai observed, the Bill is the most imperfect Bill that has perhaps ever come before any Legislative Council, and I admit that and my community also admits that. Our community is one which cannot boast of great lawyers or even small lawyers. So, there may be a number of mistakes in the Bill. But I appreciate the spirit in which the real desire of the community has been given a shape in the Bill intended for their very best interests.

Now I propose to speak a few words regarding the necessity, the urgency and the principles of the Bill. The necessity for such a measure for the Namputiris has been really felt and recognised by the various members who have already spoken in this House. Still, to give more evidence to this house in regard to it, I shall try to speak in detail. With the permission of this House, I beg to read a paragraph from the report of the Select Committee on the Cochin Namputiri Regulation.

> In order to ascertain whether there is any necessity for such a Regulation, we invited the opinion of the members of the community and also of some members of other communities interested in the welfare of the Namputiri community by means of interrogatories and oral examinations. A large number of them, generally the junior members, are for legislation, while the karanavans generally, and a few of the anandiravans, are against it. Those of them who object to the legislation admit the necessity of maintaining proper accounts in the family and of showing them to the anandiravans whenever so required. They also deny the right of the karanavan to contract debts without family necessity or to alienate family properties without the consent of the anandiravans, but what they say is that they are not being done now, and therefore, there is no necessity for legislation. The anandiravans, however, deny this, and from the evidence before us we are satisfied that some legislation is necessary, defining the rights and duties of the karanavans and the anandiravans.

And they finally conclude—

> The circumstances which induce the Government to pass the Nayar Regulation are fully applicable to a Namputiri family and we think the provisions of that Regulation so far as family management is concerned, may be made applicable to the Namputiri families also.

This report is signed by thirteen members of the Cochin Legislative Council. A Select Committee was appointed to make enquiries, to go round the country, call witnesses and examine them and report as to the necessity or otherwise for a Bill for the Namputiris. These members held four or five sittings and they examined about 900

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witnesses. From the evidence they collected, they came to the conclusion that such a legislation was necessary in the interests of the Namputiri community. Cochin and Travancore are not very much different in regard to the conditions of the Namputiri communities. I admit that Cochin has a greater proportion of the Namputiris than Travancore and also that in Cochin the Namputiris are richer than in Travancore. Except for that fact, I think there is no very great difference between the conditions of the Namputiris of the two countries. So, I beg to submit that there is no necessity now to go about asking the opinion of the Namputiris as to whether they require any legislation or not. I wish also to say that the Bill submitted to the Select Committee in Cochin has passed the second reading.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara cum Kunnattur*) May I know from the member whether the expression *grahasta* with the definition finds a place in the Cochin Namputiri Regulation?

MR. G. SANKARAN POTI (*Co-opted*): I think it does not. So from enquiries already made we know that such a legislation is necessary for the Namputiris. Let us go into the conditions of the Namputiris and see whether their conditions really require any legislative remedy. My learned friend Mr. Changanachery Paramesvaran Pillai observed in the morning that the Namputiris are gradually increasing. But he referred only to the census figures of 1921 and tried to show that there was an increase of 25 per cent. But I do not know whether he was able to compare the Census Reports of 100 or 200 years ago. To give any credence to the traditions, I must say that in times gone by there was a very large number of Namputiris in Malabar, but the number has gradually decreased and is still decreasing and I fear that if some legislative remedy is not provided, the community will diminish into such a very small number that a museum will have to be opened to keep a few as specimens of the community that existed once.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Is he able to show by actual facts and figures that the number is gradually diminishing?

MR. G. SANKARAN POTI (*Co-opted*): There are several kinds of facts, historial facts, grammatical facts, logical facts.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): On what facts does he base his arguments?

MR. G. SANKARAN POTI (*Co-opted*): Historical facts.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Has he got the facts before him now?

MR. G. SANKARAN POTI (*Co-opted*): I have got only the expressions of many men who are supposed to be competent to express an opinion.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Does he know that Mr. Changanachery Paramesvaran Pillai made his statement based upon the Census Report of 1921?

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MR. G. SANKARAN POTI (*Co-opted*) : Yes.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Is he able to say what was the population in 1911 ?

MR. G. SANKARAN POTI (*Co-opted*) : I am not in a position to say that now. I shall be able to tell him after consulting the Census Report.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Will he be able to tell me on a future date ?

MR. G. SANKARAN POTI (*Co-opted*) : Yes. (*Laughter.*)

DEPUTY PRESIDENT : I think you can as well find it out.

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*) : തിരുവിതാംകൂറിലുള്ള മലയാളബ്രാഹ്മണർ ഗ്രാമങ്ങളിലായിരുന്നു എന്നുള്ള വിവരം മെമ്പർക്കറിയാമോ?

MR. G. SANKARAN POTI (*Co-opted*) : Yes; just to satisfy the curiosity of my friend Mr. Panikkar, I shall give the history of my own village from which he can conclude whether the Namputiris are decreasing or increasing in number. I belong to a place called Perunna in the taluk of Chanaganachery. There are at present five *illams*, but there are lingering in our memory names of more than three hundred *illams*. You will find the *illam* compounds being occupied by others. In connection with a procession in a temple, *pujas* are performed at the entrance to several of these compounds. On enquiry, we can find that *pujas* are done at the entrance to these compounds because in former days those compounds were occupied by Namputiris. The names of compounds such as Mangalasseri and Mangad remind us of Namputiri *illams* which have become extinct. At present, as I said, there are five *illams* in my village. A hundred years ago, there were more than three hundred. I can take many examples from other villages also, and satisfy my friend. So, our one complaint is that our number is going down, and we want to remedy it. Mr. Changanachery Paramesvaran Pillai said that there are six thousand Namputiris. I think the world has got enough space for more Namputiris to live in. They are a sort of law-abiding people and they never trouble other communities and their fellow citizens. The statistics of Central Jail and other places will show that they are very law-abiding. And we want more of them, and our one chief aim is how to achieve that. If they could be manufactured, they would be satisfied. But it could not be done. The only way to increase the number is to increase it by birth, by increasing the number of Namputiris taking females of their caste as wives and that is one necessity for this Bill. In regard to the next point, I will give you a picture of our family life as it is at present. In these days, as my friend Mr. A. K. Pillai would say, individualism fraternity, equality and all sorts of such things are looming large in the eyes of the world. Joint family system has no place at all except in the Namputiri families. Each of us knows where the shoe pinches. I can say that the joint family system cuts at the very root of the individual

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exertions, what is called the development of personality etc., but I do not want to dilate upon that. I shall take an ordinary example. For example, wives and husbands cannot have so much of freedom and pleasure when they are surrounded by a large number of other people who are very closely related to them. That is one thing. Then the *karanavan* will not have so much love for the *anandiravan*. That is the case in all the *tarwads*. Our education is not properly looked after by the *karanavan*. The guardians of our children do not realise the necessity of giving education to their children. That is why you do not find so many Namputiris in the schools and colleges. The present system of management curtails the comforts of the members of the family. It takes away the aptitude for education from children. It takes away much of the pleasures of married life in the family. It creates dissensions in the family, and also encourages litigation between the members of the family. This is one chief complaint against the present management of the family and it would also show the necessity for changing the system of management.

Next I come to the degeneration of our community. We had a glorious past, but that will not be of any avail now. Now, our community has reached the very bottom of decline. In point of education, wealth and in esteem in the eyes of the public, the Namputiris are very poor specimens and these are the ingredients of modern civilisation and they fall very below the average standard. This is all due to the fact that our law, as obtaining at present, is defective. Of course, we do not want a new code of law regulating all our customs, manners and transactions. Certain provisions of the Hindu law govern us. And certain usages of the *Marumakkathayam* law also affect us. The Kerala Brahmins migrated into Malabar before the days of Mitakshara. And they brought with them the Aryan law and that was modified by Malabar law. We are satisfied with the Aryan law as modified by the customs and usages of Malabar. So, we do not require a new code altogether in regard to our manners and customs. But we want to change certain usages and customs and certain uncertain laws. I believe I have shown the necessity for the introduction of the Bill which is before the House today.

Next, I should like to speak a few words regarding the origin of this Bill. Ordinarily, a Bill is introduced by the Law Member at the instance of Government or some non-official members of this Council as a result of representations made by the public. But this Bill has come up through other sources. There is the Yogakshema Sabha which has been holding its conference for the last 19 or 20 years. That *Sabha* generally looks after the welfare of the community. And that *Sabha* in a conference held in 1095 passed a resolution saying that some sort of legislation should be got for providing for the better management of the tarwad and enabling junior members to marry in their own community. This Yogakshema Sabha is an all embracing organisation of the Namputiris which

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has been passing such a resolution from 1095 onwards regarding the necessity of a regulation. It was passed in 1096, 1097 and in 1099. As a result of the resolutions passed in the conference, a Bill was presented in the Cochin Council last year somewhere about Vrischikam. That Bill, as I said before, has had its second reading, and it is going to be passed. The Namputiri member in the Madras Legislative Council is similarly asked by the community to prepare and submit a similar Bill in the Madras Legislative Council. In the same way, my friend Mr. Tuppan Namputiri was asked to prepare and submit a Bill in this House. And it is in pursuance of the wishes of the Yogakshema Sabha and resolutions passed in the conference for some years that this Bill has been introduced. This resolution has been supported by the various resolutions passed at the various meetings of Namputiris held in several years from Quilon to Calicut and it is as a result of all these that this Bill has now come up before this House for consideration.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether the Cochin Bill is similar to this Bill?

MR. G. SANKARAN POTI (*Co-opted*): Similar in many points.

So, I think I have been able to convince this House, at least some of the members of the House, of the necessity for such a measure and also of the unanimous opinion of the community supported by the Yogakshema Sabha which, as I have already said, is an all-embracing organisation and which in its conferences has passed a resolution urging the necessity for such a measure. So, I do not think it can be said that there is any serious opposition to this measure.

DEPUTY PRESIDENT: I think we may rise now and meet at 11-30 tomorrow.

The Council adjourned at 5 P. M.

T. P. RAMASUBBA AIYAR,
Secretary to the Legislative Council.

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